



C.M.A(MD)No.351 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.351 of 2022

and

C.M.P.(MD)No.3190 of 2022

Tamil Nadu State Express Transport Corporation Limited,
Having its office, Vannarapetai,
Thirunelveli Town,
Thirunelveli District,
Through its General Manager.

... Appellant

Vs.

1.J.Kavitha
2.Jeyaraman
3.J.Karthiga
4.J.Ajith

5.Tamil Nadu State Transport Corporation,
Tirunelveli Branch,
Through its General Manager.

... Respondents

(5th respondent is the sister Corporation and that given up)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the award and decree made in M.C.O.P.No.2122 of 2015, dated 30.07.2021, on the file of the Motor Accident Claims Tribunal / V Additional District Court, Madurai.

For Appellant : Mr.P.Prabhakaran
For Respondents : No appearance



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JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal.

2.The contention of the Transport Corporation is that the Tribunal had failed to take the negligence of the driver of the two-wheeler. The nature of accident as narrated in the petition is that the deceased was travelling as pillion rider and the Transport Corporation bus was coming behind the two-wheeler in rash and negligent manner and hit the two-wheeler. The driver of the two-wheeler has minor injuries, but the pillion rider fell on the right side and the bus pulled him to some extent, he had injuries in the body, bleeding from the nose and other injuries. Then an ambulance was called, but he was declared dead on the spot. Since the bus hit the two-wheeler from behind, then negligence cannot be fixed on the two-wheeler, hence the plea of the Transport Corporation is rejected.

3. The next contention of the Transport Corporation is that the deceased was a pillion rider and he was not wearing helmet. Therefore, this Court is inclined to reduce Rs.50,000/- from the compensation for not wearing helmet. The Tribunal has awarded Rs.25,64,240/- as total compensation. This Court is



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reducing Rs.50,000/- from the above said compensation. Therefore, this Court is reducing the compensation to Rs.25,14,240/-.

4. The appellant Transport Corporation is directed to deposit Rs.25,14,240/- with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their shares (claimants 1 to 4 are entitled to Rs.7,59,272/-, Rs.7,59,272/-, Rs.4,97,848/- and Rs.4,97,848/- respectively) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal.

5. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

01.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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- To
- 1.Motor Accident Claims Tribunal /
V Additional District Court, Madurai.
 - 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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