



C.M.A(MD)No.944 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.944 of 2022

and

C.M.P.(MD)No.9354 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation,
Chinnamoopanpatti, Virudhunagar,
Virudhunagar District.

... Appellant

Vs.

1.Pandiammal
2.Minor. Muthukumar
3.Minor. Uma Maheswari
4.Santhiveeran
5.Muthayiri

... Respondents

(Minor 2nd and 3rd respondents are represented
through their Mother and Natural Guardian of
the 1st respondent)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgement and decree, dated 25.03.2021, made in M.C.O.P.No.41 of 2016, on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Aruppukottai.

For Appellant : Mr.K.Sudalaiyandi
For R1, 2, 3 and 5 : Mr. M.Jothibasu
R4 : Died



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JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal.

2.It is a case of fatal. The deceased was working as a Mason. While he was driving the two wheeler, he crossed the road suddenly. The deceased was plying the vehicle from West to East and the Transport Corporation vehicle was plying from East to West. Both the vehicles did not notice each other and there was head on collision. The Tribunal has fixed the entire liability on the Transport Corporation. When it is a head on collision, the other party is also at wrong. Therefore, the Tribunal ought to have taken the factor of contributory negligence on the part of the deceased as well. Therefore, this Court is fixing the contributory negligence as 10% on the deceased.

3. The next contention of the Transport Corporation is that Rs.12,000/- was taken as salary for Mason, since the accident occurred in the year 2016, the same is on a higher side. This Court is not inclined to interfere with the salary portion, since the deceased was working as a Mason and due to inflation and other factors Rs.12,000/- is appropriate fixation. Hence, the other portions of the order passed



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by the Tribunal are confirmed.
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4. The total compensation granted by the Tribunal = Rs.24,18,000/-

Deducting 10% contributory negligence = - Rs.2,41,800/-

Total compensation granted by this Court = Rs.21,76,200/-

Therefore, the total compensation granted by the Tribunal to the tune of Rs. 24,18,000/- is reduced to Rs.21,76,200/-. Pending this Civil Miscellaneous Appeal, the 4th claimant / 4th respondent herein Santhiveeran has died. Therefore, the 4th claimant's share of the compensation is also granted to the 5th claimant / 5th respondent herein by this Court.

5.The appellant Transport Corporation is directed to deposit Rs.21,76,200/- (Rupees Twenty One Lakh Seventy Six Thousand Two Hundred only) 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 (the claimants 1 to 3 and 5 are entitled to Rs.10,18,200/-, Rs.4,50,000/-, Rs.4,50,000/-, Rs.2,58,000/- respectively) are permitted to withdraw their shares with proportionate accrued interests and costs, less the



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amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. The Tribunal is directed to deposit the share of the minor children in a nationalized bank until the children attain majority. The first respondent herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months. Once the minor claimants attain majority, the claimants are permitted to withdraw their shares with accrued interests.

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

19.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

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- 1.Motor Accident Claims Tribunal,
(Subordinate Judge), Aruppukottai.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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