



C.M.A(MD)No.594 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.594 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam Division 2),
Periyamilaguparai,
Trichy.

... Appellant

Vs.

1.S.Nadhiya
2.Minor S.Dharsini
3.Minor S.Karthika
4.Minor S.Naveen

(Minors 2 to 4 are represented through
their Mother and natural guardian Nadhiya)

5.S.Tamilarasi
6.P.Shanmugam

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and award, dated 16.11.2021, made in M.C.O.P.No.106 of 2016 on the file of the Motor Accidents Claims Tribunal, Special District Court, Tiruchirapalli.

For Appellant : Mr.A.V.B.Krishnakanth

For Respondents : No appearance



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JUDGEMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal.

2.The contention of the Transport Corporation is that the Tribunal has fixed the negligence on the part of the Transport Corporation as 80% but the Transport Corporation has not committed any mistake. On perusing the nature of the accident, it is seen that it is a head on collision. The Transport Corporation bus was travelling from South to North whereas the offending vehicle was travelling from North to South. When it is a head on collision, the Transport Corporation also has negligence on its part. Therefore, this Court is not inclined to accept the contention of the Transport Corporation.

3. It is seen that the Tribunal has fixed 80% negligence on the part of the Transport Corporation and this Court is of the considered opinion that the same is on the higher side. Hence, this Court is inclined to reduce it to 70%. The Transport Corporation's negligence is fixed as 70% and 30% of negligence on the offending vehicle.

4. Under the head of loss of consortium, the Tribunal has granted Rs.



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35,000/-, this Court is increasing the same to Rs.40,000/-. The compensation granted under the other heads are confirmed. The modified compensation is as under:

Sl.No	Head of compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Loss of Dependency	Rs.12,85,200/- (confirmed)	Rs.12,85,200/-
2.	Hospital Transportation charges	Rs.7,000/- (confirmed)	Rs.7,000/-
3.	Loss of Consortium	Rs.40,000/-(enhanced)	Rs.35,000/-
4.	Parental Consortium	Rs.1,05,000/- (confirmed)	Rs.1,05,000/-
5.	Filial Consortium	Rs.70,000/- (confirmed)	Rs.70,000/-
6.	Funeral Expenses	Rs.10,000/- (confirmed)	Rs.10,000/-
7.	Property loss	Rs.10,000/-(confirmed)	Rs.10,000/-
	Total	Rs.15,27,200/-	Rs.15,22,200/-
	Subtracting contributory negligence	- 30% of total	- 20% of total
	Total compensation	Rs.10,69,040/- (reduced)	Rs.12,17,760/-

5. The appellant is directed to deposit Rs.10,69,040/- towards compensation with interest @ 7.5% per annum and costs, less the sum 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 (the claimants 1 to 6 are entitled to Rs.5,49,040, Rs.1,20,000/-, Rs.1,20,000/-, Rs.



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1,20,000/-, Rs.80,000/- and Rs.80,000/- respectively) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing proper 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. The minor children shall withdraw the amount after attaining majority.

6. With the above said observation, the Civil Miscellaneous Appeal is partly allowed. No costs.

26.02.2024

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

Tmg

To

1.Motor Accident Claims Tribunal /
Special District Court, Tiruchirapalli.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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