



C.M.A(MD)No.551 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 19.01.2024

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THE HON'BLE MR.JUSTICE S.SRIMATHY

C.M.A(MD)No.551 of 2021

and

C.M.P.(MD)No.5230 of 2021

M/s.Tamilnadu State Transport Corporation,
Door No.2, Vannarapettai,
South Bypass Road,
Tirunelveli District,
represented by its Managing Director.

... Appellant

Vs.

1.Thomas
2.Anitha

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Award and decretal order, dated 18.02.2020, passed in M.C.O.P.No.92 of 2019 by the Motor Accident Claims Tribunal (III Additional District Judge), Tirunelveli.

For Appellant : Mr.R.Rajamohan
For Respondents : Mr.T.Lenin Kumar

JUDGEMENT

This Civil Miscellaneous Appeal is filed against the award passed



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by the Tribunal. The Transport Corporation has come up with this appeal.

2.The first contention of the appellant is that the contributory negligence was not fixed on the deceased. On perusing the nature of accident, it is seen that the bus has hit the motor cycle behind the back of the motor cycle that too the left side of the bus has hit the motor cycle. In such circumstances, the accident has occurred while the bus was overtaking. Therefore, the contributory negligence factor cannot be entertained.

3.The next contention of the appellant is that the deceased was not wearing any helmet. The said plea was not raised before the Tribunal. Absolutely, there is no evidence to prove that the deceased was not wearing helmet. Hence, this plea is also rejected.

4.The next contention that was raised by the appellant is that the Tribunal has fixed Rs.10,000/- as income to the deceased. It is seen that the deceased was working as a Painter. Generally, for any profession Rs.



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8,000/- would be the minimum fixation of salary. Since the deceased is a Painter, it is an appropriate fixation. Therefore, this plea also cannot be entertained. Hence, all the pleas raised by the Transport Corporation are declined. Therefore, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.01.2024

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

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To

1. Motor Accident Claims Tribunal
(III Additional District Judge),
Tirunelveli.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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Order made in
C.M.A(MD)No.551 of 2021

19.01.2024