



C.M.A.(MD) No.1079 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2024

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THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1079 of 2024

and

C.M.P.(MD) No.11192 of 2024

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Pillaithanneerpandal,
Thirumayam Road,
Pudukottai District - 622 001.

... Appellant

Vs.

1.Nagarani
W/o.Late.Vasudevan

2.Roshan
S/o.Late.Vasudevan

3.Minor Menilruban
S/o.Late.Vasudevan
represented through his mother/
guardian, the first respondent

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the decree and judgment passed in M.C.O.P.No.122 of 2023 dated 14.12.2023 on the file of the Motor Accident Claims Tribunal (Principal District and Sessions Court), Pudukottai.



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

For Respondents : M/s.A.Banumathy

J U D G M E N T

The instant appeal has been filed by the Tamil Nadu State Transport Corporation challenging the finding on negligence and the quantum of compensation awarded by the Tribunal.

2. The respondents had filed a claim petition before the Tribunal, stating that on 16.11.2022, at 07:00 p.m., while the deceased was riding his bicycle, the bus bearing registration No.TN-55-N-900, belonging to the appellant Corporation, came from behind, dashed against the bicycle, and caused fatal injuries to the deceased.

3. The appellant Corporation filed a counter, stating that the accident took place because of the deceased, who had suddenly crossed the road, and hence, the appellant Corporation was not liable to pay any compensation and that in any case, the compensation claimed was excessive.



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4. Before the Tribunal, the respondents examined P.W.1 and P.W.2 and marked Exs.P1 to P7, and the appellant Corporation examined R.W.1 and did not mark any documents.

5. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place only due to the negligence of the bus driver, and hence, the appellant Corporation is liable to pay compensation of Rs.16,84,360/-.

6. The learned counsel for the appellant Corporation would submit that the finding of the Tribunal that the bus driver was guilty of negligence is erroneous, inasmuch as there is no evidence to show that the bus driver was guilty of rash and negligent driving, and that the compensation awarded by the Tribunal is excessive, as the notional income fixed by the Tribunal at Rs.16,678/- per month is excessive, and therefore prayed for setting aside the award of the Tribunal.

7. The learned counsel for the respondents, per contra, would submit that the award of the Tribunal is just and reasonable and no interference is called for.



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8. The points for consideration in the instant appeal are as follows:

- (a) whether the Tribunal's finding on negligence is justified;
and
- (b) whether the quantum of compensation awarded by the Tribunal is just and reasonable.

9. As regards the first point, it is seen that the respondents had examined P.W.2, the eyewitness to the occurrence, and marked Ex.P1, the FIR, to corroborate the version of P.W.2. Ex.P1, the FIR, was registered against the bus driver under Section 304-A of IPC. The evidence of R.W. 1, the bus driver, who is an interested witness, does not inspire confidence, in view of the inherent improbabilities in his evidence. The evidence suggests that the bus driver had dashed the bicycle of the deceased from behind in a rash and negligent manner. Further, R.W.1 had not challenged the FIR. Hence, the finding of the Tribunal that the bus driver was guilty of rash and negligent driving cannot be faulted.

10. As regards the quantum of compensation, this Court is of the view that, considering the date of the accident, the age and avocation of the deceased, the notional income fixed by the Tribunal and the multiplier of '11' adopted by the Tribunal for computation of compensation of



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Rs.16,14,360/- under the head 'loss of income' are just and reasonable and therefore, no interference is called for.

11. In fact, the Tribunal had not awarded any compensation towards 'loss of consortium' to the two minor children, namely the second and third respondents herein. Hence, a sum of Rs.80,000/- (Rs.40,000/- x 2) is awarded to the second and third respondents herein under the head 'loss of consortium'. Though the claimants had not preferred any appeal for enhancement of compensation, this Court has to award just and reasonable compensation in accordance with the guidelines issued by the Hon'ble Supreme Court and is doing so in the exercise of power under Order XLI Rule 33 of CPC.

12. Thus, the total compensation payable by the appellant Corporation would be **Rs.17,64,360/-** [Rs.16,84,360/- awarded by the Tribunal + Rs.80,000/- awarded by this Court]

13. The appellant Corporation is directed to deposit the enhanced compensation of Rs.17,64,360/- together with interest at 7.5% per annum from the date of presentation of the claim petition till the date of



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realization and costs, after deducting the amount already deposited, if any, within a period of 8 weeks from the date of receipt of a copy of this Judgment.

14. The first to third respondents are entitled to the compensation as per the apportionment fixed by the Tribunal.

15. The first respondent is permitted to withdraw her share along with the proportionate interest and costs, less the amount already withdrawn, if any, by filing suitable application before the Tribunal.

16. The second and third respondents were minors in 2022. Since they would have now attained age of majority, they are permitted to file application before Tribunal to record their majority and to withdraw their shares along with proportionate interest and costs.

17. The first to third respondents/claimants are directed to pay necessary court fee for the enhanced amount of compensation.



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18. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order/Non-Speaking Order

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Copy To:

1.The Principal District and Sessions Judge,
Motor Accident Claims Tribunal,
Pudukottai, Pudukottai District.

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



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SUNDER MOHAN, J.

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