



C.M.A.(MD)No.1272 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **04.10.2024**

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No.1272 of 2024
and C.M.P(MD)No.13598 of 2024

The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam Region,
Kumbakonam

... Appellant/Respondent

Vs.

1.Santhosam
2.Andisamy
3.Ponnalagu
4.Minor.Yogalakshmi

...Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 02.01.2024 passed in M.C.O.P.No.1759 of 2022 on the file of the Motor Accident Claims Tribunal cum Special District Court, Madurai.

For Appellant : Mr.S.Micheal Heldon Kumar

For Respondents : M/s. R.Anandhalakshmi



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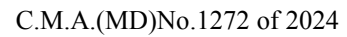
JUDGMENT

The appeal is filed by the Transport Corporation challenging the finding on liability.

2. The respondents 1 to 4 herein have filed a claim petition stating that while the deceased was travelling as a pillion rider in a two-wheeler, a bus belonging to the appellant Transport Corporation came in the opposite direction and dashed against the two wheeler, as a result of which, the deceased sustained fatal injuries.

3. The appellant filed a counter stating that the accident took place only due to the negligence of the rider of the two-wheeler; that the claim petition has to be dismissed for non-joinder of the owner of the two-wheeler and the insurer of the two-wheeler; and in any case, the compensation claimed is excessive.

4. The respondents 1 to 4 examined P.W.1 and P.W.2 and marked Ex.P.1 to Ex.P.11. The appellant examined R.W.1 to R.W.3 and marked Ex.R1 and Ex.R.2 and Ex.C.1 to Ex.C.6.



6. The only point raised by the learned counsel for the appellant Transport Corporation is that the rider of the two-wheeler was guilty of negligence; that the first information report was registered against him; that he did not have proper insurance; and hence, the direction issued to the respondent to pay compensation cannot be sustained.

7. The learned counsel for the respondents 1 to 4/claimants submitted that the Tribunal has weighed the evidence on record properly and granted compensation and hence, he prayed for dismissal of this appeal.

8. This Court gave its anxious consideration to the submissions made on either side and perused the materials available on record.



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9. On a perusal of records, this Court finds that though the evidence on record discloses that only the rider of the two-wheeler was guilty of negligence, there is no dispute that the bus belonging to the appellant Corporation was involved in the accident. As per Section 164(1) of Motor Vehicles Act, 2019, the appellant is liable to pay compensation. As per Section 164(2) of the Motor Vehicles Act, 2019, the claimant shall not be required to plead and establish that the accident took place due to the negligence of the vehicle involved in the accident. However, the compensation payable would be Rs.5 lakhs in the case of death, which has been awarded by the Tribunal. This Court finds no infirmity in the finding of the Tribunal. Non-impleading of the owner of the two-wheeler and the Insurance Company, in the facts of this case, cannot be a ground for setting aside the award passed under Section 164(1) of the Motor Vehicles Act, 2019. Hence, the award of the Tribunal is confirmed.

10. The appellant Transport Corporation is directed to deposit the compensation of Rs.5,00,000/- with interest at the rate of 7.5% from the date of petition till the date of deposit within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the amount as per the apportionment fixed by the



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Tribunal by filing a suitable application. As regards the amount awarded to the minor claimant, the same shall be deposited in a nationalized bank and the guardian of the minor is permitted to withdraw interest once every three months directly from the bank till she attains majority.

11. In fine, this appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

04.10.2024

Index : Yes / No
Neutral Citation : Yes / No
CM

To
1.Motor Accident Claims Tribunal cum Special District Court, Madurai.

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



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SUNDER MOHAN, J.

CM

Judgment made in
C.M.A(MD)No.1272 of 2024
and C.M.P(MD)No.13598 of 2024

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