



C.M.A(MD)No.860 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.860 of 2022

and

C.M.P.(MD)No.8147 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation,
having its Office at
Mettupalaiyam (Erode Region),
Chennimalai Road,
Coimbatore, Coimbatore District.

... Appellant

Vs.

1.K.S.Mallaiyan
2.Mathavanai

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award made in M.C.O.P.No.848 of 2018, dated 23.11.2021, on the file of the Motor Accident Claims Tribunal / Principal District Court, Dindigul.

For Appellant : Mr.P.Prabhakaran
For R1 and 2 : M/s.S.Vijayashanthi

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal.

2.It is a case of fatal. A TNSTC Bus and a two wheeler hit each other. The



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two wheeler rider as well as the pillion rider died on the spot. One of the passengers has preferred FIR.

3. The contention of the Transport Corporation is that the author of the FIR was not examined. Further, the accident occurred due to the rash and negligent driving of the two-wheeler, so the Driver of the two-wheeler is also responsible for the accident, but the Tribunal has failed to fix the contributory negligence on the Driver of the two-wheeler. Therefore, the Transport Corporation is before this Court.

4. After hearing the arguments of both sides, this Court is convinced that the Driver of the two-wheeler is responsible for the accident, since it is head on collision and the Driver of the two-wheeler died on the spot. Therefore, contributory negligence ought to be fixed on the two-wheeler driver also. However rather than fixing contributory negligence in terms of percentage, this Court is reducing Rs.80,000/- from the total amount awarded as compensation and the same would be just and fair compensation. The total compensation granted by the Tribunal is Rs.11,38,400/- and the same is reduced to Rs.10,58,400/- by this Court.



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5.The appellant is directed to deposit Rs.10,58,400/- (Rupees Ten Lakh Fifty Eight Thousand and Four 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 ten weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their shares (1st claimant is entitled to Rs.2,54,600/- and the 2nd claimant is entitled to Rs.8,03,800/-) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal.

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

23.02.2024

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

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To

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- 1.Motor Accident Claims Tribunal /
Principal District Court, Dindigul.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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