



C.M.A(MD)No.771 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2024

CORAM

**JUSTICE N. SESHASAYEE
and
JUSTICE L. VICTORIA GOWRI**

C.M.A(MD)No.771 of 2019
and
C.M.P(MD)No.9959 of 2019

The Managing Director,
Tamil Nadu State Transport Corporation Kumbakonam Ltd.,
Karaikudi Division.

... Appellant/Respondent

Vs.

1.S.Malarkodi
2.S.Kubandrapandian

... Respondents/Claimants

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order passed in M.C.O.P.No.219 of 2015 on the file of the Motor Accident Claims Tribunal[Additional District Judge(FTC)], Theni, dated 30.10.2018.

For Appellant :Mr.P.M.Vishnuvarthanan

For Respondents :Mr.S.Balaji



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JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

This appeal is preferred by the State Transport Corporation challenging the the quantum of compensation awarded in a fatal accident case involving the death of a 21 years old engineering student.

2. The accident had taken place on 29.05.2015, when the bus belonging to the appellant dashed against the motor-cycle driven by the victim. The contention is that while the victim was maintaining his lane, the bus came from the opposite direction crossed the middle lane and hit the motor-cycle. The death was on the spot. The rough sketch filed along with the charge sheet by the investigating agency post the investigation of the criminal angle of the case shows that the bus was proceeding from north to south whereas the motor-cycle was proceeding from south to north. At the above point where the accident took place, the road was taking a turn towards west. The boy who died was 21 years old and was an engineering student prosecuting



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his third year engineering course. Seeking compensation for his death, his mother and brother approached the Tribunal. The Tribunal fixed the negligence exclusively on the part of the driver of the bus. Turning to the quantum of compensation payable, the Tribunal fixed the notional income of the deceased at Rs.15,000/- and applied '18' as multiplier and added another 40% towards future prospects and deducted 50% for the personal expenditure of the victim and awarded Rs.22,68,000/- under the head 'loss of dependency' and added other conventional heads of compensation and arrived at a total compensation of Rs.24,03,000/-. The breakup is as follows:

S.No	Description	Amount awarded by Tribunal (Rs.)
1.	Transportation for taking the body	5,000
2.	Funeral Expenses	15,000
3.	Loss of love and affection (1 st petitioner)	1,00,000
4.	Loss of estate	15,000
5.	Loss of Dependency	22,68,000
	Total	24,03,000



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3. This award is now under challenge.

4. Heard both sides.

5. The learned counsel for the appellant gave his best to convince this Court that it is a case of contributory negligence and the Tribunal in fitness of things ought to have apportioned an appropriate percentage of negligence to the rider of the motor-cycle. He also added that the victim was not wearing any helmet at the relevant point of time. Among the various injuries, he had also suffered a head injury. He submitted that the Tribunal ought to have slashed a portion of compensation towards the failure of the victim to wear helmet.

6. Per contra, the learned counsel for the claimant submitted that for a student who was pursuing his Aeronautical Engineering which fact is not disputed by the appellant, the notional income fixed is on lower side. In fitness of things, the Tribunal ought to have fixed Rs.20,000/- a month.



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7. This Court weighed the rival submissions carefully and there is merit in the submissions of both sides.

8. It is not in dispute that the victim of the accident, who was prosecuting his engineering course had a great future ahead of him and he had a widowed mother as a only support to him. Given the circumstances and given the nature of engineering course the victim had prosecuted, it would appropriate to consider that he would have earned anywhere between Rs.18,000/- to Rs.20,000/- going by 2015 standards. If so reckoned, then even if the criteria which the learned counsel for the appellant had canvassed for reducing the compensation awarded is reckoned, it is more likely to exceed the sum now awarded. In view of the same, this Court deems it appropriate to confirm the award of the Tribunal.

9. In the result, this Civil Miscellaneous Appeal is dismissed. The award passed in M.C.O.P.No.219 of 2015 on the file of the Motor Accident Claims Tribunal[Additional District Judge(FTC)], Theni, dated 30.10.2018, is confirmed in all aspects.



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10. This Court is informed that the appellant had deposited 75% of the compensation amount and it is now directed to deposit the balance 25%, together with interests and costs within a period of twelve(12) weeks from the date of receipt of a copy of this judgment. On such deposit, claimants are entitled to withdraw their share. No Costs. Consequently, connected miscellaneous petition is closed.

(N.S.S., J.)

(L.V.G., J.)

13.06.2024

NCC : Yes/No

Index : Yes/No

PM

To

1.The Motor Accident Claims Tribunal/
The Additional District Judge(FTC)],
Theni.

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



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