



C.M.A(MD)No.883 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.883 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation,
Coimbatore.

(Amended as per order in
I.A.No.130 of 2020 dated 20.10.2020)

... Appellant

Vs.

1.R.Malliga
2.R.Alageswari
3.R.Jagadheeswari
4.R.Ramya

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the award made in M.C.O.P.No.226 of 2019 dated 30.09.2022, on the file of the Motor Accident Claims Tribunal/ District and Sessions Judge, Communal Clash Cases Court, Madurai.

For Appellant : Mr.P.Prabhakaran
For Respondents : Mr.N.S.Karthikeyan



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JUDGMENT

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The Transport Corporation has filed this Civil Miscellaneous Appeal.

2. It is a case of fatal. The contention of the Transport Corporation is that the deceased was 64 years old and he was receiving family pension to the tune of Rs.10,000/- and the deceased was the owner of a taxi. The Tribunal has taken that the taxi business would fetch income to the tune of Rs.9,000/-. The contention of the Transport Corporation is that even after the death of the victim, the taxi is still running and the family is receiving the income from the taxi. Therefore, the said Rs.9,000/- cannot be taken as additional income.

3. The next contention is that the Tribunal has granted Rs.1,00,000/- for loss of estate. As per the judgment rendered by the Hon'ble Supreme Court in the case of *National Insurance Company Limited Vs. Pranay Sethi and others* reported in **2017 (2) TN MAC 609 (SC)**, for loss of estate Rs.15,000/- is applicable. Therefore, the same is liable to be reduced.

4. The further contention of the Transport Corporation is that the accident occurred in “S” bend, therefore, the entire liability cannot be fixed on the



Transport Corporation and even the deceased was at negligence for not driving the vehicle carefully at the “S” bend. Hence, the deceased is also responsible for committing the accident.

5. Further the claimants themselves have restricted their claim to Rs. 10,00,000/-, but the Tribunal had granted over and above Rs.10,00,000/-. For these reasons, the present appeal is filed.

6. The learned Counsel for the respondents vehemently objected for reducing the amount.

7. As far as loss of estate is concerned, the respondents cannot have any legally sustainable ground to reduce the amount as Rs.15,000/-, since as per the dictum rendered in *National Insurance Company Limited Vs. Pranay Sethi and other* the amount ought to be fixed under loss of estate as Rs.15,000/- only. Hence under the said head this Court is interfering in the compensation.

7. As far as fixing the contributory negligence is concerned, when it is head on collusion, more so when there was “S” bend in the road, then the contributory



negligence ought to be fixed on the deceased as well.

8. The next contention of the appellant corporation is that the respondents themselves had restricted their claim for Rs.10,00,000/- only, but the Tribunal had fixed the same as Rs.13,39,028/- is excessive. This ground cannot be entertained, since the compensation should be just and fair compensation.

9. For the reasons stated above this Court is inclined to reduce the compensation under the head of contributory negligence, loss of estate and there is no loss in the taxi business. However, instead of reducing the amount under different heads by reworking the compensation, this Court is inclined to reduce some amount from the total compensation.

10. Therefore, this Court is reducing the total compensation from Rs. 13,39,028/- (Tribunal award) to Rs.10,00,000/-.

11. The appellant Transport Corporation is directed to deposit Rs. 10,00,000/-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,



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within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their shares (the 1st claimant is entitled to Rs.5,50,000 and the claimants 2 to 4 are entitled to Rs.1,50,000/- each) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal.

12. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs.

11.03.2024

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

Tmg

To

1.Motor Accident Claims Tribunal /
District and Sessions Judge,
Communal Clash Cases Court, Madurai.

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



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S.SRIMATHY, J.

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