



C.M.A(MD)No.499 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

and

THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

C.M.A(MD)No.499 of 2021

and

C.M.P.(MD)No.4384 of 2021

Tamil Nadu State Transport Corporation,
Rep. By its Administrative Officer,
Kumbakonam Division,
Kumbakonam,
Thanjavur District.

...Appellant

Vs.

1.V.Shajahan

2.Minor S.Danisha

(R2 is represented by her father, R1)

3.Suraiyabanu

...Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988 to set aside the judgment and decree dated 12.02.2019 passed in M.C.O.P.No.20 of 2016 on the file of the Motor Accident Claims Tribunal (Special District Court), Madurai.

For Appellant : Mr.P.M.Vishnuvarathanan

For Respondents : Mr.A.Shajahan



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JUDGMENT

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[Judgment was made by **MRS.V.BHAVANI SUBBAROYAN, J.**]

Being aggrieved over the award passed by the Motor Accident Claims Tribunal (Special District Court), Madurai in M.C.O.P.No.20 of 2016, dated 12.02.2019, the Transport Corporation has filed the present appeal.

2.The appellant Transport Corporation is the first respondent in M.C.O.P.No.20 of 2016 on the file of the Motor Accident Claims Tribunal (Special District Court), Madurai. The respondents 1 and 2 herein are the claimants. They filed the claim petition in M.C.O.P.No.20 of 2016, claiming a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) as compensation for the death of the wife of the first respondent. By the award, dated 12.02.2019, the Tribunal awarded a sum of Rs.24,72,800/- (Rupees Twenty Four Lakhs Seventy Two Thousand Eight Hundred only) as compensation along with 7.5% interest from the date of filing of the claim petition.



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3.Facts of the Case:-

According to the respondents 1 and 2, on 13.12.2014 at about 11.00 hours, when the deceased along with her uncle and second respondent was travelling towards Madurai in the car bearing Reg.No.TN 57 AD 7759, the TNSCTC bus bearing Reg.No.TN 63 N 1657, coming from the same direction in a rash and negligent manner and hit the car from behind, due to which, the deceased and her uncle sustained grievous head injuries and died. The second respondent is still taking treatment. FIR was registered against the TNSCTC bus driver. The accident occurred only due to the rash and negligent driving of the driver of the TNSCTC bus. Therefore, the respondents 1 and 2 filed the claim petition, claiming a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) as compensation.

4.The appellant Transport Corporation filed the counter statement and denied all the averments made in the claim petition. The appellant Transport Corporation contended that the accident occurred due to the sudden brake applied by the driver of the car and hence, he prayed for dismissal of the claim petition.



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5.Before the Tribunal, on the side of the claimants, P.W.1 to P.W.3 were examined and 23 documents were marked as Ex.P1 to P23. On the side of the Transport Corporation, R.W.1 was examined and no documents were marked on his side. On the side of the Court, Ex.X1 was marked.

6.Finding of the Tribunal:

The Tribunal, considering the pleadings, oral and documentary evidence, and arguments of the counsel for the appellant and claimants held that the accident occurred only due to the rash and negligent driving by the driver of the TNSSTC bus and directed the appellant Transport Corporation, to pay a sum of Rs.24,72,800/- (Rupees Twenty Four Lakhs Seventy Two Thousand Eight Hundred only) as compensation along with 7.5% interest from the date of filing of the claim petition and the details as follows:-



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<i>Heads</i>	<i>Amounts in Rupees</i>
Loss of Income	Rs.22,84,800/-
Loss of consortium for the first respondent.	Rs. 40,000/-
Loss of Love and affection for the second respondent.	Rs. 40,000/-
Medical Bills (Haseena Banu)	Rs. 78,000/-
Funeral Expenses	Rs. 15,000/-
Transportation Expenses	Rs. 15,000/-
Total	Rs.24,72,800/-

7. Aggrieved against the said award dated 12.02.2019, the appellant Transport Corporation has filed the present appeal.

8.Submission of the learned counsel for the appellant:

The learned counsel appearing for the appellant Transport Corporation submits that if sudden brake had not been applied by the car, the accident would not have been occurred and disputes the loss of income by deducting of 1/3rd towards the personal expenses of the deceased.



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9. Submission of the learned counsel for the Respondents:

Per contra, the learned counsel appearing for the respondents 1 and 2 submits that only after considering all the documents, the monthly income of the deceased was fixed and thereby the Tribunal has rightly deducted the personal expenses and therefore, there is no wrong calculation in the loss of income and hence, he seeks for dismissal of this appeal.

10. We have heard the learned Counsel appearing for the appellant and the learned counsel appearing for the respondents 1 and 2 and also perused all the materials available on record.

11. The following points arise for consideration of this appeal:

11.1. Whether the negligence is correctly fixed on the appellant Transport Corporation bus?

11.2. Whether the compensation granted is in accordance with law?



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WEB COPY **12.Discussion on the negligence:**

According to the respondents 1 and 2, on 13.12.2014 at about 11.00 hours, when the deceased along with her uncle and second respondent was travelling towards Madurai in the car bearing Reg.No.TN 57 AD 7759, the TNSC bus bearing Reg.No.TN 63 N 1657, coming from the same direction in a rash and negligent manner and hit the car from behind, due to which, the deceased and her uncle sustained grievous head injuries and died. The second respondent is still taking treatment. FIR was registered against the TNSC bus driver and marked as Ex.P.1. The accident occurred only due to the rash and negligent driving of the driver of the TNSC bus. On perusal of the materials available on record, it is seen that the accident occurred due to the negligent driving of the TNSC bus, since he was not careful while overtaking the car and hence, there is no infirmity in the finding rendered by the Tribunal on this aspect. Hence, this Court concurs with the findings of the Tribunal, that the driver of the TNSC bus, drove the bus in a rash and negligent manner and hit the car. Hence, the appellant Transport Corporation is liable to pay the compensation.



WEB COPY 13.Discussion on quantum:

The deceased was aged about 28 years. Ex.P.18 was marked to show the deceased was working in foreign country. As per Ex.P.18, the deceased served in the private company as Accountant abroad during the period between June 2012 and March 2013. From Ex.P.18, it is clear that the deceased was earning Rs.70,000/- per month. Ex.P.16 passport was produced and he also was permitted to stay in foreign country from 14.06.2012 to 13.06.2014. but, no evidence was produced to prove that she was working at the time of the accident. Therefore, the Tribunal has taken the monthly income of the deceased as Rs.12,000/-. This Court finds no error in fixing the said Rs.12,000/- as monthly income.

13.1.Calculation of the amount:

Insofar as the loss of income is concerned, the Tribunal has fixed the monthly income of the deceased at Rs.12,000/-. After adding 40% of the future prospects and deducting 1/3rd towards personal expenses applied multiplier 17 and the same is calculated as follows:



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[Rs.12,000+ 40% (Rs.4,800)] = Rs. 16,800/-
[Rs.16,800- Rs.5,600 (1/3)] = Rs. 11,200/-
Annual income (Rs.11,200 X 12) = Rs. 1,34,400/-
(Rs.1,34,400 X 17) = Rs.22,84,800/-
Loss of Income = Rs.22,84,800/-

13.2. The non pecuniary damages as per the *Pranay Sethi Case* is calculated as follows:-

<i>Heads</i>	<i>Amount in rupees</i>
Loss of consortium for the first respondent.	Rs. 40,000/-
Loss of Love and affection for the second respondent.	Rs. 40,000/-
Medical Bills (Haseena Banu)	Rs. 78,000/-
Funeral Expenses	Rs. 15,000/-
Transportation Expenses	Rs. 15,000/-

13.3. Therefore, we are of the considered view that the compensation awarded by the Tribunal is just and fair and does not require any interference. In view of the above, this Court finds no merit in the contentions of the learned counsel appearing for the appellant Transport Corporation.



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WEB COPY 14.Conclusion:

For the foregoing reasons, the compensation awarded by the Tribunal under the various heads is enumerated hereunder:-

<i>Sl. No.</i>	<i>Heads</i>	<i>Amounts in Rupees</i>
1	Loss of Income	Rs.22,84,800/-
2	Loss of consortium for the first respondent.	Rs. 40,000/-
3	Loss of Love and affection for the second respondent.	Rs. 40,000/-
4	Medical Bills (Haseena Banu)	Rs. 78,000/-
5	Funeral Expenses	Rs. 15,000/-
6	Transportation Expenses	Rs. 15,000/-
	Total	Rs.24,72,800/-

In view of the above, this Court finds no merit in the contention of the learned counsel appearing for the appellant Transport Corporation.

15. Accordingly, this Civil Miscellaneous Appeal is dismissed and the judgment and award passed by the Motor Accident Claims Tribunal (Special District Court), Madurai in M.C.O.P.No.20 of 2016, dated 12.02.2019 is hereby confirmed. The appellant Transport Corporation is



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directed to deposit the award amount with proportionate accrued interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the major claimants are permitted to withdraw the award amount as apportioned by the Tribunal, less the amount, if any already withdrawn, by making necessary application before the Tribunal. The Tribunal shall deposit the shares of the minor claimant in a Fixed Deposit under the cumulative deposit scheme, in any one of the Nationalized Banks, till they attain majority. The father / guardian of the minors is permitted to withdraw the interest accrued thereon once in three months directly from the bank. No costs. Consequently, connected miscellaneous petition is closed.

**(V.B.S.J.,) (K.K.R.K.J.,)
12.03.2024**

Index: Yes/No
Internet: Yes/No
sm/sbn



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To

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- 1.The Motor Accident Claims Tribunal
(Special District Court), Madurai.
- 2.The Section Officer, V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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