



C.M.A.(MD).Nos.17 of 2021 and 14 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2024

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THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.M.A.(MD).Nos.17 of 2021 and 14 of 2022
and C.M.P.(MD).No.274 of 2021

C.M.A.(MD).No.17 of 2021

M/s.Tamilnadu State Transport Corporation Limited,
Rep. by its Managing Director,
Ranithottam,
Nesamony Nagar,
Nagercoil.

... Petitioner/Appellant

Vs.

1.Kamaraj

2.Samundeeshwari

... Respondents/Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to call for the records relating to the order and decretal order dated 02.11.2019 passed in M.C.O.P.No.982 of 2018 by the Motor Accident Claims Tribunal (III Additional District Judge), Tirunelveli, and to set aside the same.

For Appellant : Mr.R.Rajamohan

For Respondents : Mr.T.Selvakumaran for R1 & R2



C.M.A.(MD).Nos.17 of 2021 and 14 of 2022

C.M.A.(MD).No.14 of 2022

1.Kamaraj

2.Samundeeshwari

... Appellants/Petitioners

Vs.

M/s.Tamilnadu State Transport Corporation Limited,
Rep. by its Managing Director,
Ranithottam,
Nesamony Nagar,
Nagercoil.

... Respondent/Respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to enhance the award amount in M.C.O.P.No. 982 of 2018 by the Motor Accident Claims Tribunal (III Additional District Judge), Tirunelveli, dated 02.11.2019.

For Appellants : Mr.T.Selvakumaran

For Respondent : Mr.R.Rajamohan

COMMON JUDGMENT

C.M.A.(MD).No.17 of 2021 has been filed to set aside the fair order and decretal order dated 02.11.2019 passed in M.C.O.P.No.982 of 2018 by the Motor Accident Claims Tribunal (III Additional District Judge), Tirunelveli. C.M.A.(MD)No.14 of 2022 has been filed seeking enhancement of the above said award.



C.M.A.(MD).Nos.17 of 2021 and 14 of 2022

4.That was resisted by the appellant. The rider of the two wheeler attempted to over take the bus, lost the control and dashed against the bus and invited the accident. Other customary denials were made.

5.At the conclusion of the enquiry, the tribunal found that the occurrence took place because of the rash and negligent driving on the part of the appellant's driver and accordingly, fixed the liability.

6.Regarding the compensation, the monthly income of the deceased was taken as Rs.20,000/- notionally. To that 40% of the future prospects were added. Arrived the monthly income as Rs.28000/-. Considering the fact that he died as bachelor, half of the amount was deducted. As mentioned above, it was fixed as Rs.14,000/-. Multiplier 17 was adopted, the dependency was calculated as Rs.28,56,000/-. To that other customary amount were added. Which are detailed in the tabulation made out.

<i>Sl. No.</i>	<i>Nature of Head</i>	<i>Award (Rs.)</i>
1.	<i>Loss of Dependency</i>	28,56,000
2.	<i>Loss of Estate</i>	15,000
3.	<i>Funeral Expenses</i>	15,000



C.M.A.(MD).Nos.17 of 2021 and 14 of 2022

4.	<i>Filial Consortium to both the petitioners at the rate of Rs. 40,000/-</i>	80000
	Total	29,66,000

7. Against the award, the corporation filed appeal questioning the liability and quantum. Claimants filed appeal seeking enhancement. Both are heard together and common Judgment is passed.

8. The learned counsel for the Tamilnadu Transport Corporation would submit that only the deceased invited the accident. Regarding the compensation he submitted that taking Rs.20,000 notional income is on the higher side.

9. Per contra the claimants would submit that the proper documentary evidence was produced before the Tribunal, to show the income and he was also income tax assessee. He is having tax payer registration profile. He was running garments business. But no income tax statement was filed before the Tribunal. Even before this Court also. On the basis of the profile, notional income was fixed as Rs.20,000/-. Apart from that an Engineering Graduate can get salary of Rs.20,000/-



C.M.A.(MD).Nos.17 of 2021 and 14 of 2022

per month. On that ground only, the Tribunal adopted the notional income. That cannot be construed to be neither higher or nor less. Loss of dependency was fixed as Rs.28,56,000/-. There is no evidence to show that after the death of the deceased the business was closed. The business might to have been carried on by other persons. Whatever, it may be, even the contribution to the business earning, it was reasonably fixed as Rs.20,000/-. So no interference is called for. So both the appeals deserves to be dismissed.

10.Accordingly, both the civil miscellaneous appeal stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

25.07.2024

Index : Yes / No
Internet : Yes / No
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To

- 1.The III Additional District Judge, Motor Accident Claims Tribunal,
Tirunelveli.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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C.M.A.(MD).Nos.17 of 2021 and 14 of 2022

G.ILANGO VAN,J.

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C.M.A.(MD).Nos.17 of 2021 and 14 of 2022

25.07.2024