



CMA.(MD)No.274 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 05/06/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

CMA (MD) No.274 of 2022

and

CMP (MD) No.2566 of 2022

M/s.Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
represented by Managing Director,
Maruthupathy,
Managiri Road,
Karaikui (Region)
Karaikudi.

: Appellant/Respondent

Vs.

1.Thangarasu
2.Ramayee
3.Lakshmi

: Respondents/Claimants

PRAYER:-Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the impugned award passed in MCOP No.690 of 2018, dated 30/09/2020 on the file of the MACT (District Court), Karur, and pass any other orders.

For Appellant : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.K.Sudalaiyandi

J U D G M E N T

This Civil Miscellaneous Appeal is filed seeking an order to set aside the award passed in MCOP No.690 of 2018, dated 30/09/2020 by the Motor Accident Claims Tribunal (District Court), Karur



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2. The facts in brief:-

On 01/08/2018 the deceased Sadayan was returning to his house on the Trichy to Karur main road. At about 06.40 pm, he was standing on the left portion of the road, waiting for crossing over. At that time, the driver of the vehicle bearing registration No.TN-63-N-1652 drove the same in a rash and negligent manner and hit the deceased. As a result of which, he sustained grievous injuries, taken to the hospital and without responding to the treatment, he died.

3.At the time of the accident, he was aged about 60 years. He was earning Rs.15,000/- per month as Cobbler. Claiming compensation of Rs.20,00,000/-, the dependents filed the petition.

4.That was resisted by the appellant stating that the deceased without noticing the traffic and movement of the vehicles, attempted to cross the road. On seeing the attempt on the part of the deceased, the driver of the appellant Bus Driver applied brake. But the deceased hit the left portion of the body and sustained injuries. There was no rash and negligence on the part of the appellant vehicle driver.



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5.On the side of the claimants, 2 witnesses examined and 8 documents marked. On the side of the Transport Corporation, one witness was examined and no document marked.

6.At the conclusion of the enquiry, the Tribunal with regard to the negligence, on the basis of the evidence of PW2 recorded a finding that the occurrence took place because of the rash and negligent driving of the appellant vehicle driver. In spite of that, a case registered over the occurrence and thereafter, it was closed as 'Mistake of Facts' on the ground that the occurrence took place because of the negligence on the part of the deceased.

7.Regarding the compensation, it assessed the income on notional basis as Rs.11,000/-. After adopting proper multiplier of '5', it arrived at the loss of income as Rs.4,40,040/-. To that, customary amounts were added. Finally, it awarded Rs.6,00,040/-.

8.Against which, this civil miscellaneous appeal is preferred.

9.Heard both sides.



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10.Regarding the first issue of negligence, elaborate discussion was made by the Tribunal. In spite of the fact, the criminal case was registered and thereafter, it was closed as 'Mistake of Facts'. It relied upon the evidence of PW2.

11.PW2 in his statement stated before the Tribunal that he witnessed the occurrence and when the deceased was standing on the left side of the road, the driver of the appellant vehicle drove the vehicle in a rash and negligent manner and hit him. It also relied upon the rough sketch drawn during the course of the investigation. Wherein it has been noted that the deceased was standing on the mud portion of the road. This was taken note of by the Tribunal.

12.When the deceased was standing in the mud road portion of the road, naturally the occurrence would have taken place only because of the rash and negligence on the part of the appellant vehicle driver. It is not the case of sudden crossing. So, I find no ground to interfere into the question of negligence.

13.Regarding the compensation amount also, it was reasonably fixed as per tabulation given hereunder;-



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Loss of future income	Rs.4,40,040/-
Loss of consortium	Rs.1,20,000/-
Loss of estate	Rs. 15,000/-
Funeral expenses	Rs. 15,000/-
Transport expenses	Rs. 10,000/-
Total	Rs.6,00,040/-

14.The learned counsel appearing for the appellant would submit that the age of the deceased was 68 years. For a Cobbler, we cannot expect any documentary evidence to prove the correct income. Regarding the multiplier '5', it requires no interference. To this compensation amount, which was calculated as per the proper procedure, conventional amounts were also added, which was also just and reasonable.

15.In find that without proper reason, this appeal is preferred by the Appellant Transport Corporation.

16.In the result, this Civil Miscellaneous Appeal is **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

05/06/2024

Index:Yes/No
Internet:Yes/No
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To,

1.The Motor Accident Claims Tribunal/
District Court,
Karur.

2.The Section Officer,
VR/ER Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

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