



C.M.A.(MD).No.684 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 06.12.2023

PRONOUNCED ON : .2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.684 of 2018

and

C.M.P.(MD)No.7883 of 2018

The Managing Director,
Tamil Nadu Transport Corporation
(Kovai Division),
Thiruppur.

... Appellant

Vs.

1.Jayalakshmi
2.Minor Ramani
3.Minor Vasudevan
(Minors 2 and 3 represented through their
Mother and natural guardian Jeyalakshmi
The first respondent herein)

4.Valli

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Special District Judge,



C.M.A.(MD).No.684 of 2018

Tiruchirappalli, in M.C.O.P.No.4 of 2014 dated 26.09.2016.

WEB COPY

For Appellant	: Mr.K.A.Thirumalaiyappan
For R1 and R4	: Mr.C.Padmaraj
For R2 and R4	: Minors

JUDGMENT

This Civil Miscellaneous Appeal has been directed as against the award passed by the Motor Accident Claims Tribunal (Special District Judge), at Tiruchirappalli in M.C.O.P.No.4 of 2014 dated 26.09.2016 by the appellant/respondent/Transport Corporation, challenging the liability and quantum of the award.

2.For the sake of convenience, the parties are addressed herein as per the rank in M.C.O.P.No.4 of 2014.

3.The brief facts leading to the filing of the Civil Miscellaneous Appeal is as follows:-

This is a fatal case, wherein the first petitioner is the wife of the deceased, the petitioners 2 and 3 are the minor children of the deceased and the fourth petitioner is the mother of the deceased. On 01.11.2013 at about 12.30 p.m., while one Ganesan was riding his two wheeler bearing



C.M.A.(MD).No.684 of 2018

registration No.TN-40-Y-6162 along with his friend Sabarish on the extreme left side of Dharapuram – Thiruppur Road near Varappalayam bus stop towards south direction, a TNSTC bus bearing registration No.TN-39-N-0050 belonging to the respondent dashed against the said motorcycle and as the result of which, the rider and pillion rider sustained several multiple fatal injuries and died on the spot. Immediately the bodies were taken to Dharapuram Medical hospital wherein post mortem was conducted. The deceased person Ganesan was 26 years at the time of accident. Seeking compensation of Rs.15,00,000/- for the death, the petitioners have filed the claim petition.

4.The respondent Transport Corporation has filed a counter refuting each and every allegations put forth in the claim petition.

5.The learned Tribunal has framed two issues. Two witnesses P.W. 1 and P.W.2 were examined on the side of the petitioners and Ex.P1 to Ex.P4 were marked. Two witnesses were examined and no document was marked on the side of the respondent. FIR in Crime No.607 of 2013 along with CD files of Dharapuram was marked as Ex.X1 series. On the



C.M.A.(MD).No.684 of 2018

basis of oral and documentary evidence and considering the arguments put forth by respective parties, the learned Tribunal proceeded to concluded that the death of said Ganesan happened exclusively due to the negligence of the driver of the Transport Corporation bus. The learned Tribunal had arrived at such a conclusion on appreciating the rough sketch in Ex.X1 and the evidence of R.W.2, which would reveal the nature of the place of occurrence which is a curved road and concluded that the occurrence happened only on left side of the road and fixed the negligence on the bus driver and the entire compensation awarded by the learned Tribunal has already been deposited by the respondent Transport Corporation. The learned Tribunal fixed the age of the deceased as 26 years on the basis of Ex.P2 post mortem certificate and proceeded to fix a notional monthly income of Rs.5,000/- and deducted $\frac{1}{4}^{\text{rd}}$ towards the personal expenses of the deceased, thereby the income for his family was arrived at Rs.3,750/- [Rs.5,000-1,250 ($5,000 \times \frac{1}{4}$)]. Considering the age of deceased, the Tribunal has added 50% future prospects and arrived at a income at Rs.5,625/- [Rs. 3,750+1,875 ($3,750 \times 50\%$)]. The learned Tribunal arrived at a compensation under the head loss of income as Rs.11,47,500/-



C.M.A.(MD).No.684 of 2018

(Rs.5,625x12x17) and further passed an award under the following heads:-

Head	Compensation awarded
(I) Loss of income:	Rs.11,47,500/-
(ii) Transport and Funeral Expenses:	Rs.25,000/-
(iii) Loss of Love and Affection for three persons:	Rs.1,00,000/-
(iv) Loss of Spousal Consortium:	Rs.50,000/-
Total compensation awarded:	Rs.13,22,500/- with interest @ 7.5 % from the date of the claim until the realization and costs.

6. Challenging the same, the appellant/respondent/Transport Corporation has filed this Civil Miscellaneous Appeal.

7. A critical perusal of the materials available in record would reveal that though spousal consortium ought to have been fixed by the learned Tribunal at Rs.40,000/-, the same has been awarded as Rs. 50,000/-. However, loss of love and affection for parent consortium and filial consortium, the learned Tribunal has been awarded a sum of



C.M.A.(MD).No.684 of 2018

33,333/- instead of Rs.40,000/-, as per *Magma General Insurance Co.*

Ltd. v Nanu Ram and others reported in *2018 ACJ 2782 (SC)*.

8. In view of the same, this Court is not inclined to interfere neither with the liability fixed on the appellant/respondent/Transport Corporation nor the quantum awarded by the learned Tribunal.

9. The appellant/Transport Corporation is directed to deposit the award amount with 7.5% interest from date of the claim petition till the date of realization and the amount if not deposited earlier, has to be deposited within a period of 8 weeks from the date of receipt of copy of this order. On such deposit, the major claimants/respondents 1 and 4 herein are permitted to withdraw the award amount as per apportionment made by the learned Tribunal, after deducting any amount received by them earlier without filing any formal petition before the Tribunal. Insofar as the share of the minor claimants/respondents 2 and 3 herein are concerned, the learned Tribunal is directed to deposit the award amount as per apportionment made by the learned Tribunal, in a Fixed Deposit under a periodically renewable scheme till they attain majority



C.M.A.(MD).No.684 of 2018

and the first petitioner, the Guardian of the minor, is permitted to withdraw the interest accrued thereon once in three months for the welfare of the minors. The petitioners/claimants are not entitled for interest for the default period, if there is any.

10. Accordingly, the Civil Miscellaneous Appeal stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

.2024

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

To

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



WEB COPY



C.M.A.(MD).No.684 of 2018

L.VICTORIA GOWRI, J.

Mrn

C.M.A.(MD)No.684 of 2018

.2024