



C.M.A.(MD).No.688 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.688 of 2017

and

C.M.P(MD) No.7137 of 2017

The Managing Director,
M/s.Tamilnadu State Transport Corporation,
(Madurai Division),
Bye-Pass Road,
Virudhunagar.

... Appellant/ Respondent

-vs-

1. Indira
2. Ananth
3. Minor Arun
4. Minor Anbarasan
(The minor respondents 3 and 4 are
represented through their mother
and guardian the 1st respondent)

5. K.Perumayee

... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree dated 03.12.2014 made in M.C.O.P.No.852 of 2012 on the file of the Motor Accident Claims Tribunal/ District and Sessions Court/Communal Clash Cases Court, Madurai.

For Appellant : Mr.P.Prabhakaran



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For Respondents : No appearance

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation, challenging the award passed in M.C.O.P. No.852 of 2012, on the file of the Motor Accident Claims Tribunal/ District and Sessions Court/Communal Clash Cases Court, Madurai, primarily on the ground of quantum.

2. The deceased was riding a two wheeler at the time of the accident that took place on 13.11.2011. The bus belonging to the appellant Transport Corporation came in the opposite direction in the rash and negligent manner and dashed against the two wheeler, in which, the deceased sustained injuries and later succumbed to the said injuries. According to the claimants, the deceased was working as a Mazdoor in Tamil Nadu Electricity Board, Usilampatti, and he was earning a sum of Rs.13,000/- per month as salary. The claimants have prayed for a sum of Rs.25,00,000/- towards compensation.



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3. The Transport Corporation has filed a counter affidavit contending that the accident has taken place only due to the negligence on the part of the rider of the two wheeler and they are no way responsible for the compensation. The Transport Corporation has also disputed the quantum of compensation as prayed for in the claim petition.

4. The Tribunal after considering the evidence on either side had arrived at a finding that only due to the negligence on the part of the driver of the Transport Corporation, the accident has taken place and mulcted the entire liability on the Transport Corporation. The Tribunal, relying upon Ex.P.5 and Ex.P.6- Salary Certificates and Ex.P.7 – Service Register, arrived at a finding that he was receiving monthly salary of Rs.11,392/-. The 1/4th of said salary was deducted towards personal expenses and considering the age of the deceased as 43, multiplier “14” was adopted and 30% was added towards future prospectus and ultimately, a compensation of Rs.18,65,982/- was awarded under the head of loss of income. Further, the Tribunal has awarded a sum of Rs.50,000/- towards loss of consortium to the wife of the deceased and another sum of Rs.40,0000/- each to the five claimants to the tune of Rs.2,00,000/- and a sum of Rs.25,000/- was awarded towards funeral expenses, and a sum of Rs.5,000/- towards Transport expenses. Totally an



5. According to the learned counsel appearing for the appellant, once the Tribunal has awarded 40% towards loss of love and affection to each five claimants, for loss of love and affection, independently another sum of Rs.50,000/- should not be awarded by the first claimant towards loss of consortium.

6. In view of the above said facts, the award of the Tribunal is reduced from Rs.21,45,982/- (Rupees Twenty One Lakhs Forty Five Thousand Nine Hundred and Eighty Two only) to Rs.20,95,982/- (Rupees Twenty Lakhs Ninety Five Thousand Nine Hundred and Eighty Two only). The said amount of Rs.50,000/- shall be deducted towards loss of consortium from the share allotted to the wife by the Tribunal. In other respects, the award of the Tribunal stands confirmed. In case, the Transport Corporation has not yet deposited the award amount, the same shall be deposited within a period of eight weeks from the date of receipt of a copy of this order.



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7. In the result, this Civil Miscellaneous Appeal stands partly allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

24.04.2024

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

1. The Motor Accident Claims Tribunal/
District and Sessions Court/Communal Clash Cases Court,
Madurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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