



CMA.(MD)No.154 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated:06/06/2024

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The Hon'ble Mr.Justice **G.ILANGOVA**

CMA (MD) No.154 of 2021

and

CMP (MD) No.1337 of 2021

The Tamil Nadu State Transport
Corporation Ltd.,
Palani Branch,
Dindigul,
Through its
The Managing Director. : Appellant/Respondent

Vs.

1.Marjia Banu
2.Minor Tanzila Begum
3.Minor Tasrimanasrin
4.Nijamtin
5.Noorjakan (Died) : Respondents/Petitioners
(Memo, dated 23/04/2024 filed
on 25/04/2024 in USR No.16201
is recorded as R5 died and R4
who is already on record is
recorded as LR of the deceased R5)

PRAYER:-Civil Miscellaneous Appeal is filed under
Section 173 of the Motor Vehicles Act, to set aside the
judgment and decree passed in MCOP No.65 of 2017, dated
06/03/2019 on the file of the Motor Accident Claims
Tribunal (Additional District Judge), Palani.

For Appellant : Mr.K.Sudalaiyandi

For Respondents : Mr.S.Sades Kumar



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JUDGMENT

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This Civil Miscellaneous Appeal is filed seeking an order to set aside the judgment and decree passed in MCOP No.65 of 2017, dated 06/03/2019 by the Motor Accident Claims Tribunal (Additional District Judge), Palani.

2.The facts in brief:-

On 14/05/2013 at about 05.15 pm, the deceased was returning to his house in a two wheeler bearing registration No.TN-57-AX-2698 on the Dindigul-Palni Main road. At that time, near the place of occurrence, a Bus bearing registration No.TN-57-N-1167 came in a rash and negligent manner driven by its driver and hit the deceased vehicle. He sustained injuries and died on the spot.

3.Over the occurrence, a case in Crime No.300 of 2013 was registered against the Bus driver by the Palani Police Station. At the time of accident, the deceased was working as Tailor in a Company in Tirupur and earning Rs.10,000/- per month. Claiming compensation amount of Rs.15,00,000/-, the dependents filed the claim petition.

4.That was resisted by the appellant herein by filing a counter stating that on the date of the



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occurrence, the rider of the two wheeler without properly wearing helmet found driving the two wheeler in a rash and negligent manner and suddenly try to cross the road. On seeing the sudden crossing, the appellant Bus driver applied brake. In-spite of that, the rider of the two wheeler dashed against the Corporation Bus and sustained injuries. So the appellant Bus driver is not responsible for the occurrence.

4.Before the Tribunal, on the side of the claimants, 3 witnesses were examined and 7 documents marked. On the side of the Transport Corporation, one witness was examined and no document was marked.

5.At the conclusion of the trial process, the Tribunal found that the occurrence took place due to the rash and negligence on the part of the appellant Bus driver.

6.The Tribunal relied upon the oral evidence of PW3, who witnessed the occurrence. According to him, the appellant driver by overtaking another vehicle crossed to the right side of the road and hit the two wheeler, which was coming in the opposite direction. The case was registered against the appellant Bus driver.



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7.The appellant Bus driver was not examined before the Tribunal. Only the conductor was examined as RW1. But during the cross examination, he has admitted that he did not witness the occurrence properly. In the absence of any evidence on the side of the appellant on this aspect by examining the concerned driver, the oral evidence of PW3, who is the eye witness has to be relied. As stated by him, it is seen that the appellant Bus driver crossed the right side of the road and dashed against the vehicle coming in the opposite direction. The manner in which the occurrence said to have taken place clearly indicates the rash and negligent driving of the appellant Bus driver. So, I find no reason to interfere into the above said finding on that aspect.

8.Regarding the compensation, the Tribunal held that there was no proper documentary evidence to show the correct income of the deceased, even though, it was stated that he was working as 'Tailor' in a Textile company in Tirupur. It assessed the income as Rs.6,500/- per month. Considering the age of the deceased, who is about 30 and having a female children would have earned a reasonable income. The amount fixed by the Tribunal as notional income at Rs.6,500/- requires no interference. Following the judgment of the Hon'ble Supreme Court in



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the case of **Sarla Verma**, multiplier was fixed at 17. By adopting the proper deduction, the Loss of income was assessed at Rs.10,60,800/-. To that, consortium and other customary amounts were added as indicated below.

Loss of Income	Rs.10,60,800/-
Loss of Consortium	Rs. 40,000/-
Loss of Estate	Rs. 15,000/-
Funeral expenses	Rs. 15,000/-
Total	Rs.11,30,800/-

9.So the compensation amount fixed by the Tribunal is just and reasonable, requires no interference.

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

06/06/2024

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

- 1.The Motor Accident Claims Tribunal/
Additional District Judge,
Palani.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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