



C.M.A(MD)No.943 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.943 of 2018
and
C.M.P(MD)No.10198 of 2018

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam Division,
Railway Station New Road,
Kumbakonam Taluk,
Thanjavur District.

... Appellant/1st Respondent

Vs.

- | | |
|----------------------------|-----------------------------------|
| 1.G.Fathima Beevi | ... 1st Respondent/1st Petitioner |
| 2.M.Kulam Thasthakeer | ... 2nd Respondent/2nd Petitioner |
| 3.G.Raakpeeth Basheeria | ... 3rd Respondent/3rd Petitioner |
| 4.Minor G.Mohammed Ibrahim | ... 4th Respondent/4th Petitioner |
| 5.Minor G.Shahul Hameed | ... 5th Respondent/5th Petitioner |
| 6.Minor G.Rahamathullah | ... 6th Respondent/6th Petitioner |

*(Minors 4, 5 and 6 represented through
their mother and natural guardian
Fathima Beevi, the first respondent
herein)*

- | | |
|-------------------------|-----------------------------------|
| 7.A.Mohammed Feroshkhan | ... 7th Respondent/2nd Respondent |
|-------------------------|-----------------------------------|



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8.The Branch Manager,
National Insurance Company Limited,
No.1754/1756, Ganesh Complex
Manojiappa Street, South Prathana Veethi,
Thanjavur. ... 8th Respondent/3rd Respondent

PRAYER: Civil Miscellaneous Appeal is 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 Sub Court, Thanjavur in M.C.O.P.No.1173 of 2015, dated 10.12.2016.

For Appellant : Mr.A.V.B.Krishnakanth
Standing Counsel for TNSTC

For R-1 to R-3 : Mr.V.Balaji

For R-7 : No appearance

For R-8 : Mr.J.S.Murali

JUDGMENT

The instant appeal has been filed by the Transport Corporation challenging the liability as well as quantum of the award passed in M.C.O.P.No.1173 of 2015 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Thanjavur.



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2. According to the claimants, the deceased was 18 years old and

he was a daily wager in a vessel shop. They have further contended that he was earning a sum of Rs.400/- per month. According to the claimants, the deceased was a passenger in an auto, while the bus owned by the State Transport Corporation was driven in a rash and negligent manner and dashed against the said auto. Due to the said impact, the passenger of the auto had sustained grievous injuries and later he passed away. The claimants have prayed for a sum of Rs.25,00,000/- as compensation.

3. The Transport Corporation has filed a counter contending that there was negligence only on the part of the auto driver because he was carrying 8 passengers at the relevant point of time. They have further disputed the age, avocation and quantum of compensation as claimed by the claimants.

4. The Tribunal after considering the oral and documentary evidence has arrived at a finding that, the accident has taken place due to the rash and negligent driving on the part of the Transport Corporation and the driver of the auto has also contributed to the said accident. Based upon the said findings, the liability was fixed upon the Transport



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Corporation as well as the auto on a fifty fifty basis.

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5. The Tribunal has taken the notional monthly income of the deceased person at Rs.8,000/- and has added 50 percent towards future prospects. It had deducted 50 percent from the monthly income towards personal expenses and has applied the multiplier of 18. Ultimately, the Tribunal has awarded a sum of Rs.12,96,000/- towards loss of income. A sum of Rs.25,000/- has been awarded towards funeral expenses. A sum of Rs.2,00,000/- has been awarded towards loss of love and affection for 6 claimants and in total, a sum of Rs.15,21,000/- has been awarded. Challenging the same, the present appeal has been filed.

6. According to the learned Counsel appearing for the appellant, the Tribunal ought not to have added 50 percent towards future prospect, considering the fact that, he was self-employed. He further contended that the claimants are not entitled to receive Rs.2,00,000/- towards loss of love and affection. The issue relating to the negligence on the part of the auto driver has been decided by this Court in C.M.A(MD)No.1234 of 2017 to the effect that the entire negligence is on the part of the Transport Corporation.



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7. I have carefully considered the submissions made on either side and perused the materials available on record.

8. As rightly contended by the learned Counsel appearing for the appellant, the Tribunal ought not to have added 50 percent towards future prospects and therefore, the future prospects is reduced to 40% [8000 X 40%=Rs.3,200/-]. The notional monthly income is fixed at Rs.11,200/-. 50% is deducted towards personal expenses, which results in the monthly income of [11,200 X 50%] Rs.5,600/-. Adding multiplier of 18, the compensation under the head of loss of income will be [12 X 5,600 X 18] Rs.12,09,600/-.

9. In view of the above said discussion, the award of the Tribunal is re-assessed as follows:

S.No.	Heads	Compensation
01.	Loss of income	Rs.12,09,600/-
02.	Funeral Expenses	Rs.25,000/-
03.	Loss of love and affection 40,000 X 6	Rs.2,40,000/-
04.	Loss of Estate	Rs.15,000/-
05.	Transport Charges	Rs.5,000/-
	Total	Rs.14,94,600/-



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10. The award of the Tribunal is hereby modified from Rs.15,21,000/- (Rupees Fifteen Lakhs Twenty One Thousand only) to **Rs.14,94,600/- (Rupees Fourteen Lakhs Ninety Four Thousand only).**

The award amount shall carry 7.5% interest from the date of the claim petition. The Transport Corporation is directed to deposit the said amount within a period of eight (8) weeks from the date of receipt of a copy of the judgment. On such deposit, the claimants are entitled to withdraw as per the apportionment laid down by the Tribunal.

11. The appeal stands partly allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

08.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR



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To

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- 1.The Motor Accident Claims Tribunal,
Special Sub Court,
Thanjavur.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

BTR

Judgment made in
C.M.A(MD)No.943 of 2018

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