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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No. 1301 of 2023

The Administrative Director,
Tamil Nadu State Transport Corporation,
(Coimbatore Limited),
Coimbatore.

... Appellant

Vs.

1. Arukkani

2. Rajamani

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the award and decree made in M.C.O.P.No. 265 of 2021 dated 23.03.2023 on the file of the Motor Accident Claims Tribunal / Additional District Court, Karur.

For Appellant : M/s.P.Prabhakaran

For Respondents : Mr.J.Sadiq Raja

JUDGEMENT

The Transport Corporation has filed this appeal to set aside the award and decree made in M.C.O.P.No.265 of 2021 dated 23.03.2023



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on the file of the Motor Accident Claims Tribunal / Additional District Court, Karur.

2. It is a case of fatal. The contention of the Transport Corporation is that the deceased did not wear helmet and he sustained head injury. The Transport Corporation has specifically raised a plea before the Tribunal that the deceased was not wearing helmet hence, contributory negligence shall be fixed on the deceased as well.

3. The next plea raised by the Transport Corporation is that during evidence the claimants have declared that at the time of accident the deceased was working as an Agricultural Coolie and earned a sum of Rs.10,000/-, as monthly income. But the Tribunal has taken the notional income Rs.12,000/-, which is on Higher side. Moreover, when the claimant themselves had stated only Rs.10,000/- the Tribunal had taken Rs.12,000/- without any basis and without any evidence.

4. It is seen from the records that the appellant had admitted the liability of Rs.5,50,000/-, but disputed the balance liability. After



hearing the submissions, this Court is of the considered opinion that if Rs.6,50,000/- is awarded then the same would be just and fair compensation.

5. In view of the aforesaid submission, the Appellant / Transport Corporation is directed to deposit a sum of Rs.6,50,000/-, within a period of Eight weeks, from the date of receipt of a copy of the order, with 7.5% interest from the date of petition till the date of realization along with Costs, less the amount if already deposited. On such deposit the claimants are permitted to withdraw their respective share as apportioned by the Tribunal, less the amount if already withdrawn.

6. With these modifications, this Civil Miscellaneous Appeal is partly allowed. No costs.

16.02.2024

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

1. The Motor Accident Claims Tribunal/
Additional District Court,
Karur.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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Order made in
C.M.A(MD)No.1301 of 2023

16.02.2024