



C.M.A.(MD) No.1100 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.1100 of 2024
and
C.M.P.(MD)No.11528 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation,
(Karaikudi Region), Kumbakonam Ltd,
Nesawalar Colony, Sivaganga, SH-29, Karaikudi.
... Appellant/Respondent

vs.

1.P.Shanmugam
2.S.Prakash
3.S.Elamathi
4.M.Sumathi
5.Minor S.Santhosh
(Represented by his father/first respondent)
... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1983, against judgment and decree dated 30.06.2023 passed in M.C.O.P.No.243 of 2021 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Karur.

For appellant : Mr.K.A.Thirumalaiappan
For Respondents : Mr.R.Sakthivel



C.M.A.(MD) No.1100 of 2024

WEB COPY

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Tamil Nadu State Transport Corporation against the award dated 30.06.2023 made in M.C.O.P.No.243 of 2021 by the Motor Accidents Claims Tribunal/Additional District Judge, Karur.

2. Heard the arguments of the learned counsel for the appellant and the respondents and perused relevant records.

3. This appeal focuses on the liability issue and on quantum.

4. Upon consideration, the Tribunal fixed the income of the deceased at Rs.12,000/- p.m. By adding 40% towards future prospects and by deducting 50% of the income towards personal and living expenses, loss of dependency was arrived at Rs. 18,14,400/-. Towards loss of consortium, an amount of Rs. 2,00,000/- was granted. For loss of estate and for funeral expenses, an amount of Rs.15,000/- under each head was granted. For transport expenses, an amount of Rs.10,000/- was granted. In



C.M.A.(MD) No.1100 of 2024

all, an amount of Rs.20,54,400/- was granted as compensation.

WEB COPY

5. It has come on record through the evidence of P.W.2 (Ocular witness) that on 20.12.2020 at about 6.00 p.m., when he was standing on the northern side of the Karur-Trichy road (East-west road), on the southern side, Sathish S/o.Shanmugam was standing along with his two wheeler bearing registration No.TN-47-Y-2736 and a bus bearing registration No.TN-63-N-1786, which came from east to western direction came in a rash and negligent manner, hit on the said Sathish, who was standing on the extreme left side of the road. Due to the said impact, he was thrown away and he succumbed to the injuries on the spot. The accident occurred due to the rash and negligent driving of the driver of the above said bus. During his cross examination, he would state that he was present, when the deceased was sent to the hospital in an ambulance. When a suggestion was posed to him that the deceased was proceeding in a wrong route opposite to the bus, he has answered in negative. He has reiterated that the accident occurred on the mud portion of the road.



C.M.A.(MD) No.1100 of 2024

6. Whereas, on the respondent side, the driver of the bus has been examined as R.W.1 (Dhayala Rajan). It is his evidence that on 20.12.2020, while he was proceeding from Karaikudi to Coimbatore in the bus bearing registration No.TN-63-N-1786, at about 6.20 p.m., when he was reaching Andipalayam, a person came in a wrong direction without helmet and without following traffic rules and hit on the front left side of the bumper. Upon his complaint, a case has been registered against the rider of the two wheeler. Due to the rash and negligent driving of the deceased only, the accident happened.

7. In consideration of the evidence of P.W.2 and R.W. 1/Ocular witnesses, the Tribunal concluded that the accident occurred due to the rash and negligent driving of the driver of the appellant/Corporation and held that for non-wearing of helmet by the deceased, contributory negligence at 10% was fixed on the part of the deceased and the respondent/Transport Corporation was made liable to pay 90% of the compensation amount. I do not find any good reason to reverse the findings of the Tribunal.



C.M.A.(MD) No.1100 of 2024

WEB COPY 8. As regards the monthly income, it is the evidence of P.W.

1/father that the deceased was working as a service man in V.M. Service Station and was earning a sum of Rs.350/- per day. No document was marked to substantiate the said details. As per Ex.P3/Post Mortem Certificate, his age is fixed as 20 years. The Tribunal has fixed the notional income at Rs.12,000/-. By adding 40% for future prospects and taking multiplier as 18, the loss of dependency was arrived at Rs.18,14,400/- by the Tribunal cannot be found fault with. Hence, it needs no interference and the award of the Tribunal is confirmed.

9. In the result,

(i) The Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(ii) The compensation of Rs.18,48,960/- awarded by the Tribunal is confirmed.



C.M.A.(MD) No.1100 of 2024

WEB COPY

(iii) The appellant/Transport Corporation is directed to deposit the reduced compensation amount of Rs.18,48,960/- (less the amount already deposited if any) with interest at 7.5% p.a. from the date of filing of the claim petition till the date of realisation to the credit of M.C.O.P.No.243 of 2021 on the file of Motor Accidents Claims Tribunal, Additional District Court, Karur, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimants/respondents 1 to 4 are permitted to withdraw their share amount as per apportionment made by the Tribunal with interest, after adjusting the amount, if any already withdrawn by filing necessary application before the Tribunal.

(v) The Tribunal is directed to deposit the share amount of the minor claimant/fifth respondent in any one of the Nationalized Bank in an interest bearing Fixed Deposit, initially for a period of three years, renewable thereafter, till the minor attains majority. The guardian of the minor/first respondent, who is his father, is



C.M.A.(MD) No.1100 of 2024

permitted to withdraw interest from the said deposit, once in three months and utilise the same for the welfare of the minor claimant/fifth respondent.

30.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
apd

To

1.The Additional District Judge,
The Motor Accidents Claims Tribunal,
Additional District Court,
Karur.

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD) No.1100 of 2024

R.KALAIMATHI,J

apd

Pre-delivery order made in
C.M.A.(MD) No.1100 of 2024

30.01.2025