

CMA(MD)No.680 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.08.2025

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**CMA(MD)No.680 of 2024
and
CMP(MD)No.7973 of 2024**

The Managing Director,
Tamilnadu State Transport Corporation,
Pudukottai.

... Appellant

vs.

1. Muthuselvi
2. Selvi Priyadharshini
3. Poovarasi
4. Minor Visithra
(4th respondent is represented by her
mother/natural guardian 1st respondent)

... Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 23.08.2023 in MCOP.No.301 of 2017 on the file of the Motor Accident Claims Tribunal (Special Court for E.C & NDPS Act Cases, Pudukottai), dated 23.08.2023.



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For Appellant : Mr.A.V.B.Krishnakanth
For R1 to R4 : Ms.A.Banumathy

JUDGMENT

[Judgment of the Court was made by **A.D.JAGADISH CHANDIRA, J.**]

This Civil Miscellaneous Appeal is filed against the judgment and decree dated 23.08.2023 in MCOP.No.301 of 2017 on the file of the Motor Accident Claims Tribunal (Special Court for E.C & NDPS Act Cases, Pudukottai), dated 23.08.2023.

2. The facts of the case are that on 11.03.2017, at 11.45 a.m., one Arumugam, husband of the 1st respondent/claimant and father of the respondents 2 to 4/claimants, was riding his two wheeler bearing registration No.TVS XL Super TN 55 AB 3057 on Pudukkottai to Karambakudi road. While he was coming on Agni river bridge, a bus bearing registration No.TN 55 N 0641 owned by the appellant transport corporation came in the opposite direction and dashed against the motor cycle driven by the said Arumugam, in which, he sustained grievous



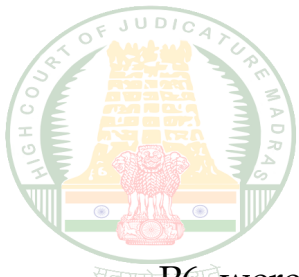
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injuries all over his body and died on the spot. The legal heirs of the deceased Arumugam filed a claim petition in MCOP.No.301 of 2017 on the file of the Motor Accident Claims Tribunal, Special Court for E.C & NDPS Act Cases, Pudukottai, claiming compensation of Rs.100,00,000/-.

3. The appellant transport corporation filed a counter affidavit denying the manner of accident contending that on seeing the motor cycle driven by the deceased in a rash and negligent manner by taking the extreme right side of the Agni river bridge road, the driver of the bus stopped the bus, even then, the deceased who was unable to control his two wheeler, dashed against the front bumper of the bus and fell down, thereby the accident had occurred. Therefore, the deceased was solely responsible for the accident. Apart from the above, the appellant also disputed the age, income, avocation of the deceased and the compensation claimed under various heads.

4. Before the Tribunal, the wife of the deceased examined herself as PW1 and an eyewitness was examined as PW2 and Exs.P1 to

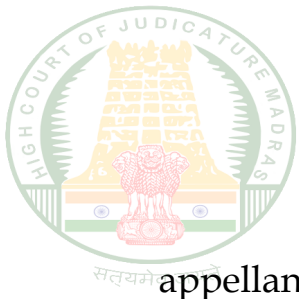


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P6 were marked. On the side of the appellant, RW1 to RW3 were examined and Ex.R1 and Ex.R2 were marked.

5. On consideration of the oral and documentary evidence adduced on either side, the Tribunal held that the accident had occurred due to the rash and negligent driving of the driver of the appellant transport corporation bus and quantified the compensation at Rs. 42,20,400/- with 7.5% interest per annum from the date of petition till the date of deposit payable by the appellant. Aggrieved by the finding of the Tribunal regarding negligence and quantum of compensation, the appellant transport corporation has filed this appeal.

6. The learned counsel for the appellant would submit that on the date of accident, while the bus was nearing Agni river bridge, the bus driver noticed the deceased driving his two wheeler in a rash and negligent manner on the extreme right side of the bridge and stopped the bus in order to avoid head-on-collision, even then, the deceased hit against the bumper of the bus and caused the accident. Therefore, the



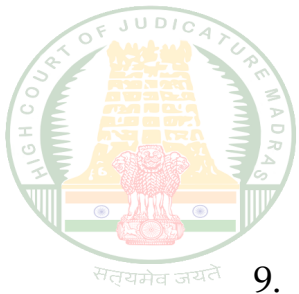
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appellant is not liable to pay the compensation. He would further submit that the deceased was aged 55 years and had worked in Tamilnadu Electricity Board and therefore, fixation of monthly income at Rs.40,574/- and consequential computation of dependency compensation is exorbitant. Thus, he would pray for setting aside the award passed by the Tribunal.

7. Per contra, the learned counsel for the respondents/claimants would submit that the Tribunal based on the evidence of PW2-eyewitness and Ex.P1-FIR lodged against the driver of the bus, has rightly held that the driver of the bus was responsible for the accident. As far as the quantum of compensation is concerned, the Tribunal relying upon Ex.P6-salary certificate of the deceased, fixed the monthly income and computed the loss of dependency and also awarded amount under other heads. Thus, he would submit that the award of the Tribunal does not require interference by this Court.

8. Heard both sides.



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9. Perusal of record shows that to prove negligence on the part of the driver of the bus, apart from the evidence of PW1, an eyewitness was examined as PW2, who had deposed that the driver of the bus drove the same in a rash and negligent manner and dashed against the motor cycle driven by the deceased. Though the appellant transport corporation contended that the driver of the bus on seeing the deceased driving his motor cycle in a rash and negligent manner, stopped the bus, even then, the deceased hit against the front bumper of the bus and died, neither the driver of the bus nor any other person who had witnessed the accident had been examined to disprove the version of PW2. The FIR has been lodged against the driver of the bus. Further, the evidence of PW2 was not shattered by the appellant during the cross examination. The Tribunal based on the evidence of PW2 and Ex.P1-FIR, held that the driver of the bus was responsible for the accident and accordingly fixed the liability on the appellant to pay the compensation.

10. On the quantum of compensation, the claimants contended that the deceased was aged 55 years on the date of accident and was



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working as a Foreman in the Tamil Nadu Electricity Board and earned Rs.60,747/- per month. In support of the income of the deceased, the claimants marked Ex.P6-pay certificate of the deceased. The Tribunal relying upon Ex.P6, had fixed the monthly income of the deceased at Rs. 40,574/- (Rs.60,747 - Rs.20,173), after deducting Rs.19,000/- towards income tax and Rs.1,173/- towards professional tax. Since the deceased was aged 55 years at the time of accident, 15% of income was added towards future prospects and the monthly income was fixed at Rs. 46,660/- (40,574+6086). Since the deceased had wife and three daughters, 1/4th of the amount was deducted towards the personal expenses of the deceased (Rs.46,660 - Rs.11,665 = Rs.34,995) and multiplier 11 was applied. Accordingly, the loss of dependency was computed at Rs.46,19,340/- (Rs.34,995x12x11). Apart from the above, the Tribunal has awarded Rs.15,000/- each towards loss of estate and funeral and transportation expenses and Rs.40,000/- towards loss of consortium. Altogether, the Tribunal awarded compensation of Rs. 46,89,340/-, in which, 10% at Rs.4,68,934/- was deducted for not wearing Helmet by the deceased. Ultimately, the claimants were



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awarded with Rs.42,20,406/- as compensation with 7.5% interest per annum from the date of petition till the date of deposit.

11. Though the appellant assailed the fixation of monthly income of the deceased, we see that such fixation was made based on Ex.P6-pay certificate of the deceased. The Tribunal after deducting income tax and professional tax, has rightly fixed the monthly income. Further, the addition of future prospects, deduction of income towards personal expenses of the deceased, application of 11 multiplier and the consequential computation of loss of dependency cannot be said to be erroneous. The Tribunal has also awarded compensation under the conventional heads and loss of consortium as per the judgment of the Hon'ble Supreme Court in *National Insurance Company Limited vs. Pranay Sethi and others* reported in 2017 (2) TNMAC 609 SC. Perusal of record also shows that though there are three daughters of the deceased, the Tribunal has failed to award reasonable sum for the loss of love and affection. We find that the compensation awarded by the Tribunal under different heads cannot be said to be excessive. There is no infirmity in the award passed by the Tribunal, as such it is confirmed.



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12. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant is directed to deposit the entire award amount with interest and costs as awarded by the Tribunal, less the amount already deposited, to the credit of the claim petition, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 to 3/major claimants are permitted to withdraw their respective shares with proportionate interest and costs by filing formal permission petition before the Tribunal. The share of the 4th respondent/minor claimant shall be deposited in a Nationalised Bank in a fixed deposit until she attains majority. The interest accruing on such deposit is permitted to be withdrawn by the 1st respondent/mother of the minor claimant, once in three months directly from the bank. Consequently, connected miscellaneous petition is closed.

[A.D.J.C., J.] [R.P., J.]
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Index : Yes / No
Neutral Citation : Yes / No



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The Judge,
Motor Accident Claims Tribunal,
Special Court for E.C & NDPS Act Cases,
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