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The Divisional Manager vs Deepa

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SooperKanoon Citation : sooperkanoon.com/1822539

Court : Chennai

Decided On : Jul-29-2025

Judge : Honourable Mrs.Justice T.V.Thamilselvi

Appeal No. : CMA/488/2022

Appellant : The Divisional Manager

Respondent : DEEPA

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI and CMP.No.3558 of 2022 The Divisional Manager Tamilnadu State Transport , Corporation Villupuram Ltd, Villupuram, Villupuram District-604 303. Appellant Vs

1. Deepa

2.Minor Nimuna D/O Suresh, minor rep by their mother and guardian the 1st respondent Deepa 3.Minor Jayashree D/O Suresh , minor rep by their mother and guardian the 1st respondent -Deepa 4.Naavappan 5.Thavursayee 6.ICICI Lombard General Insurance Co Ltd No.140, Nungambakkam High Road

Chottabai Centre, 2nd and 3rd Floor, Nungambakkam, Respondent(s) Chennai - 600 034. PRAYER This Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicle Act to set aside the judgment and decree dated 19/11/2019 passed in MCOP.No.256 of 2016 on the file of the MACT Special District Judge,Villupuram. For Appellant(s): Mr.S.S.Santhosa Kumar For Respondent(s): Mr.S.Ram Prabu for Mr.L.Ramanathan for R1 To R4 Mr.P.Magesh for R6 R 5 - Refused

ORDER

This Civil Miscellaneous Appeal has been filed by the appellant/ Tamil Nadu State Transport Corporation challenging the judgement and decree dated 19.11.2019 passed in MCOP.No.256 of 2016 by the Motor Accidents Claims Tribunal, (Special District Judge), Villupuram, whereby the Tribunal has awarded Rs.10,45,750/- as compensation.

2. The brief facts of the case are as follows: 2.1. On January 18, 2016, at around 04.30 p.m., the deceased Suresh was driving an auto rickshaw bearing registration No.TN32 AF 4521 on the

Chennai-Trichy road. A government bus bearing registration No. TN 21 N 1195, driven by its driver in a rash and negligent manner and collided with the auto rickshaw, resulting in Suresh's instantaneous death. An FIR was registered against the driver of the bus bearing registration No. TN 21 N 1195 under Sections 279 and 304(A) of IPC at Vikravandi Police Station in Crime No.7/2016. The claimants have filed claim petition in MCOP.No.256 of 2016 before the Motor Accidents Claims Tribunal (Special District Judge) Villpuram and the Tribunal has awarded a sum of

Rs.10,45,750/-. Aggrieved over the award of compensation, the Tamil Nadu State Transport Corporation (Villupuram) Ltd., has filed this Civil Miscellaneous Appeal.

3. The first respondent has filed counter and contended that the claim

petition is liable to be dismissed as the accident occurred solely due to the negligence on the part of the deceased Suresh, who drove his auto rickshaw bearing registration No. TN 32 AF 4521 in the wrong lane, from South to North on the Eastbound road, at high speed and under the influence of alcohol, whereas the bus bearing registration No.TN 21 N 1195 was being driven at a

steady speed on the Villupuram - Trichy National Highway. Despite the bus driver's efforts to avoid the collision by applying the brakes, the auto rickshaw crashed into the bus. It is further contended that the petitioners have failed to prove their status as legal heirs and establish age, occupation, and income of the deceased. Therefore, the respondents are not liable to pay any compensation, and the claim petition deserves to be dismissed.

4. The third respondent filed a counter affidavit and contended that the

claim petition is not maintainable, as the accident was caused due to the rash and negligent driving of the deceased Suresh, who drove the auto richshaw without a valid license and the vehicle also lacked necessary documents, including insurance, permit and registration, and therefore, the third respondent insurance company is not liable to pay compensation to the petitioners, who have claimed an excessive amount without substantiating the age, occupation and income of the deceased as well as their legal heir status.

5. Before the Tribunal, on the side of the claimants, P.W.1 and P.W.2 were

examined and exhibits Exs.P.1 to P.11 were marked in support of their claim. On the side of the second respondent, R.W.1 to R.W.2 were examined and exhibits Ex.R.1 to R4 were marked in support of their contentions. On the side of the third respondent, one Kesavan was examined and no documents were marked.

6. Heard the respective counsel on either sides and perused the entire material placed on record.

7. The Tribunal, considering the pleadings, oral and documentary

> evidence, held that the accident occurred due to the rash and negligent riding of the driver of the auto rickshaw and fixed 25 % negligence on the part of the deceased and 75% negligence on the part of the driver of the bus bearing Registration No.TN 21 N 1195 and fastened the liability on the Tamil Nadu Transport Corporation and the Tribunal has also dismissed the claim petition insofar as the respondents 2 and 3. The tribunal totally awarded a sum of Rs.10,44,750/- as compensation to the claimants under the following heads:

Loss of Dependency Rs.13,23,000/- Loss of Consortium to the first Rs.40,000/- claimant Funeral expenses Rs.15,000/- Loss of Estate Rs.15,000/- Total Rs.13,93,000/- After deducting 25% of amount Rs.10,44,750/- from total compensation

8. A perusal of the FIR under Ex.P1 would indicate that the deceased

> driver of the auto rickshaw drove the vehicle in the wrong direction on a four- lane highway, is a clear violation of Rule 17 of the Road Traffic Regulations, 1989 and this reckless act contributed significantly to the accident. This Court finds that the Tribunal erred in not giving adequate weightage to the aforesaid facts. Considering the auto rickshaw driver's lethargic fault and the role of bus driver in driving the bus at high speed, this Court apportions the liability at 65% on the part of the Transporte Corporation and 35% on the part of the deceased.

9. Further the Tribunal has granted Rs.13,23,000/- towards Loss of

Dependency by determining Rs.7,000/- as notional income of the deceased. However, this Court is of the view that the monthly income determined by the Tribunal is not in consonance with the evidence on record. Considering the nature of work and the prevailing economic conditions, this Court determines the monthly income of the deceased Suresh as Rs.12,000/-. Adding 40% towards Future Prospects, deducting 1/4th towards personal expenses and adopting a multiplier of 15, the Loss of Dependency would be Rs.22,68,000/- =[(12,000 +40% of 12,000) x x 12 x15). The Tribunal has failed to award any compensation towards Loss of Love and Affection to the second and third claimants. This Court is of the opinion that the second and third claimants being the children of the deceased, are entitled for compensation under the head Loss of Love and Affection and therefore, Rs.40,000/- each is awarded to the second and third claimants. The compensation awarded under other heads are just, fair and reasonable and the same is confirmed.

10. In view of the above, the compensation awarded by the Tribunal is modified as under :- S. No. Description Awarded by the Awarded by this Tribunal Court (Amount in (Amount in Rs.) Rs.) 1 Loss of Dependency 13,23,000/- 22,68,000/- (enhanced) 2 Loss of Consortium to 40,000/- 40,000/- the first claimant (confirmed) 3 Funeral expenses 15,000/- 15,000/- (confirmed) 4 Loss of Estate 15,000/- 15,000/- (confirmed) 5 Loss of love and Affection - 80,000/- (40,000 x 2) (granted) Total 13,23,000/- Enhanced to Rs.24,18,000/- 10,44,750/- 15,71,700/- (After (After deducting deducting 35% of amount 25% of from total amount from compensation) total compensation)

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed and

the impugned award is modified, enhancing the compensation amount from Rs.10,44,750/- to Rs.15,71,700/-. The appellant/ Transport corporation is directed to deposit the said amount to the credit of

M.C.O.P.No.256 of 2016 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs less, the amount, if any, already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. The 1st respondent is entitled to Rs.8,00,000/-; 2nd and 3rd respondents are entitled to Rs.3,00,000/- each; and the 4th respondent is entitled to Rs.1,71,700/-. The Tribunal is directed to deposit the minor share in any one of the nationalised bank till they attains majority. The 1st respondent/guardian of the minor is permitted to withdraw the interest accrued once in three months. On such deposit being made, the Tribunal is directed to transfer the share of the respondents directly to their bank accounts, through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellants. The claimants/respondents 1 to 4 are directed to pay the Court fee for the enhanced

compensation amount, if required. Consequently, connected miscellaneous petition is closed. 29-07-2025 Jai Index:Yes/No

Speaking/Non-speaking order

Internet:Yes Neutral Citation:Yes/No To

1. MACT, Special District Judge, Villupuram.

2. The VR Section, High Court of Madras.

T.V.THAMILSELVI, J.

jai 29-07-2025

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