IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2016

CORAM

THE HON'BLE MR.JUSTICE **G.CHOCKALINGAM**

C.M.A.No.548 of 2002
and
C.M.P.No.4284 of 2002

The Managing Director,
Tamil Nadu State Transport Corporation,
(VPM DVN.1) Ltd.,
Villupuram. .. Appellant/3rd Respondent

.. Vs ..

1. K.Thirupurasundari
2. K.Chitra
3. Sumathi
4. Geetha
5. K.Suba
6. A.N.Vijaya Kumar
7. United India Insurance Company Ltd.,
   Divisional Office,
   Nehru Street,
   Kumaran Road,
   Tiruppur. .. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, amended by M.V. (Amendment) Act 1994 against the judgment and decree dated 28.09.2001 made in

M.C.O.P.No.120 of 2000 on the file of the Motor Accidents Claims Tribunal, (Additional Sub Court), Mayiladuthurai.

For Appellant	: Mr.R.Balakrishnan
For RR-1 to 5	: Mr.S.Sounthar
For R-6	: Served
For R-7	: Mr.C.V.Gopalakrishnan

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JUDGMENT

This civil miscellaneous appeal is directed against the judgment and decree dated 28.09.2001 made in M.C.O.P.No.120 of 2000 on the file of the Motor Accidents Claims Tribunal, (Additional Sub Court), Mayiladuthurai.

2. The facts of the case are as follows:-

On 02.04.1996, the Mini Lorry bearing Registration No.TN-39-D-1177 Eicher came towards Ulundurpet from Kallakurichi and the said vehicle was driven by the deceased i.e., son of the first respondent herein and brother of respondents 2 to 5 herein. When the said vehicle was coming near Ulundurpet at about 5.20 a.m., the bus bearing Registration No.TN-32-0139 belonging to the appellant herein was coming from the opposite direction and hit the vehicle of the deceased. As a result of which, the vehicle was damaged and the deceased also sustained serious injuries. The deceased was taken to the Government Hospital Ulundurpet and then to Cuddalore Government Hospital and again, he was admitted in R.M.H.Thanjavur where he died on 08.04.1996 in spite of treatment. Claiming a sum of Rs.2,00,000/-, the mother and four sisters of the deceased had filed a petition for compensation. The Tribunal, after considering the evidence adduced by both parties, finally awarded a sum of Rs.1,84,500/- towards compensation and directed the appellant/Transport Corporation to deposit the said compensation amount along with interest at the rate of 9% per annum from the date of petition till the date of deposit. Aggrieved against the said award passed by the Tribunal, the present appeal is preferred by the appellant/Transport Corporation.

3. The learned counsel for the appellant/Transport Corporation would mainly contend that the Tribunal grossly erred in relying the evidence of P.W.2, who is known to the deceased. It is further contended that the reason assigned by the Tribunal in rejecting the

evidence of R.W.1 is not sustainable in law. Further, the Tribunal, without observing the principles, awarded excessive compensation of Rs.1,84,500/- and therefore, the claim has to be reduced according to the facts of the case and hence, the learned counsel prayed that the award passed by the Tribunal has to be set aside and the appeal has to be allowed.

4. The learned counsel appearing for the respondents 1 to 5/claimants would contend that the Tribunal, after considering the entire evidence and facts and circumstances of the case, awarded appropriate compensation and there is no illegality or infirmity in the award passed by the Tribunal and hence, he prayed that the award passed by the Tribunal has to be confirmed and the appeal has to be dismissed.

5. This Court heard the submissions made by the learned counsel appearing for the appellant and the learned counsel appearing for the respondents 1 to 5 and 7 and perused the entire records.

6. On perusal of of the judgment of the Tribunal, it is seen that the Tribunal, after considering the oral and documentary evidence adduced on either side, correctly fixed the liability on the appellant. Further, the Tribunal correctly fixed the age of the deceased and income of the deceased as Rs.15,000/- per year and after giving deduction, awarded appropriate compensation by applying 17 multiplier under the following heads:

Loss of future income	-	Rs.1,70,000/-
Funeral expenses	-	Rs. 2,000/-
Medical expenses during treatment	-	Rs. 500/-
Transport expenses	-	Rs. 2,000/-
Loss of love and affection	-	Rs. 10,000/-
		Rs.1,84,500/-

7. Considering the facts and circumstances of the case, the Tribunal, awarded just and appropriate compensation to the claimants. Hence, the argument of the learned counsel for the appellant/Transport Corporation that the Tribunal awarded excessive compensation is not at all acceptable and hence, the civil miscellaneous appeal deserves to be dismissed.

8. In the result, the civil miscellaneous appeal is dismissed by confirming the judgment and decree dated 28.09.2001 made in M.C.O.P.No.120 of 2000 on the file of the Motor Accidents Claims Tribunal, (Additional Sub Court), Mayiladuthurai. Consequently, the connected miscellaneous petition is closed. No costs.

17.11.2016

Internet : Yes
Jrl

To

1. The Additional Sub Court,
   The Motor Accidents Claims Tribunal,
   Mayiladuthurai.

2. The United India Insurance Company Ltd.,
   Divisional Office,
   Nehru Street,
   Kumaran Road,
   Tiruppur.

G.CHOCKALINGAM, J.

Jrl

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