



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.547 of 2017

and

C.M.P(MD) No.5821 of 2017

The Managing Director,
State Express Transport Corporation Ltd.,
Pallavan Salai,
Chennai - 600 002.

... Appellant/Respondent

Vs.

1.Inbalatha
2.Karthik Ram
3.Raj Priyan
4.Sowntharam

... Respondents/Petitioners

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 19.09.2016, passed in M.C.O.P.No.22 of 2014 on the file of the Motor Accidents Claims Tribunal, (Additional District Court), Virudhunagar.

For Appellant : Mr.P.Prabhakaran
For Respondents : Mr.S.M.Mohangandhi

JUDGMENT

This civil miscellaneous appeal has been filed challenging the award passed by the learned Additional District Judge, Motor Accidents Claims Tribunal, Virudhunagar, in M.C.O.P.No.22 of 2014, dated 19.09.2016.

2. Heard the learned Counsel appearing on either side and perused the records carefully.

3. It is a case of fatal and the tribunal has awarded a sum of Rs.27,05,000/- as compensation, against which, the Appellant/Transport Corporation is on appeal before this Court.

4. Though several grounds are raised in the memorandum of grounds, the main grounds emphasized by the appellant Corporation are negligence and quantum.

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5. The learned Counsel for the appellant submitted that the



deceased, who was crossing the median of the Highway road, touched the left side of the bus, caused the accident and that the deceased was responsible for the accident and therefore, the appellant is not liable to pay compensation to the respondents.

6. It is seen from the records that even though the appellant has taken up the defence that the accident was due to the rashness and negligence on the part of the deceased in crossing the median of the highway, RW1 is not specific in his evidence that the accident was due to the carelessness on the part of the deceased in crossing the median but he has deposed that it was while crossing the road. Further more, nothing contrary has been elicited during the cross examination of P.W.2 who has given evidence as an eye witness. Ex.P.4, the Rough sketch reveals that the accident has occurred on the extreme left of the road but not on/near mediation and therefore, the tribunal has held that there is no contributory negligence on the part of the deceased and also has elaborately discussed the ground of negligence holding that the driver of the appellant Corporation is the cause for the accident.

7. Insofar as the quantum is concerned, the learned Counsel for the appellant contended that the tribunal has erred in deducting 1/4th income of the deceased towards his personal expenditure, since the fourth claimant/the deceased's mother is no more. However, this Court is not able to accede with the said contention, for the simple reason that the fourth claimant was very much alive at the time of accident and therefore, she is entitled for the claim, as rightly held by the tribunal.

8. It is the grievance of the appellant Corporation that the tribunal has awarded a sum of Rs.1,00,000/- towards loss of love and affection; Rs.1,00,000/- towards loss of consortium; and Rs.20,000/- towards funeral expenses, totalling a sum of Rs.2,20,000/-. These are all nothing but compensation on conventional heads. The Hon'ble Supreme Court, in the case of **National Insurance Company Ltd., v. Pranay Sethi and others, decided on 31.10.2017**, has categorically held that the loss towards conventional heads should be Rs.70,000/- and therefore, the award of the tribunal towards conventional heads should be restricted to Rs.70,000/-.

9. Perusal of records shows that a sum of Rs.24,85,000/- was awarded towards loss of dependency, however, no compensation was awarded towards future prospectus. The deceased was 57 years old and was working as Senior Superintendent in Postal Department at the time of accident. Therefore, following the decision of the Apex Court in **National Insurance Company Ltd., v. Pranay Sethi and others, decided on 31.10.2017** (cited supra), 15% has to be fixed towards future prospectus.

10. It is a simple math that by fixing the future prospectus as 15% and reducing the compensation towards conventional heads, as discussed earlier, the overall compensation will be on the higher

side and therefore, interference of this Court is not warranted.

11. In view of the foregoing discussions, this civil miscellaneous appeal is liable to be dismissed and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

The Additional District Judge,
Motor Accidents Claims Tribunal,
Virudhunagar.

Copy To:-

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
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+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 62437
+ 1 CC TO Mr.S.M.MOHAN GANDHI, ADVOCATE IN SR No. 62548

GK

TE/SV-MMS/SAR-3 : 21/06/2018 : 3P/6C

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