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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM:

THE HON'BLE MR.JUSTICE.R.MAHADEVAN

C.M.A.No.445 of 2004

Tamil Nadu State Transport
Corporation Ltd., (Villupuram III Division)
Kancheepuram, represented by its
Managing Director. Appellant

Vs.

1. A. Kalaivani
2. Minor A.Nethyasri
represented by her mother, next friend
1st petitioner
3. A.Mangaiyarkarasi (deceased)
4. P.Arumugam
5. A.Anandan
6. A.Vairavel
7. M.Vasugi
8. V.Anandhi Respondents

(R4 to R8 are brought on record as legal representatives of the deceased 3rd respondent vide order of the Court dated 03/12/2010 made in CMP.Nos.1652 to 1654 of 2010)

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 30.04.2003 made in M.C.O.P.No.520 of 2002 on the file of Motor Accidents Claims Tribunal, II Additional District Judge, Pondicherry.

For Appellant : Mr.R. Arunmozhi

For Respondents : M/s.K.S.Kamatchi for
Mr.T.R. Rajaraman for R1 and R2
R3-died (Steps taken)



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J U D G M E N T

This Appeal is preferred by the appellant/Transport Corporation against the Judgment and Decree dated 30.04.2003 made in M.C.O.P.No.520 of 2002 on the file of Motor Accident claims Tribunal, II Additional District Judge, Pondicherry.

2. The case in brief is as follows:-

On a fateful day i.e., on 22.10.2000, when the deceased (Azhaguvel) was driving the mini-lorry bearing Registration No.TN-04-H-0147 from Cuddalore to Chennai, the appellant's bus bearing Registration No. TN-21-N-0467 came from the opposite direction in a rash and negligent manner and dashed against the mini lorry and thereby caused serious injuries to the deceased. Immediately he was taken to the General Hospital, Chengalpet, but he succumbed to the injuries. The legal heirs of the deceased filed a claim petition before the Tribunal and the Tribunal, on consideration of the materials and evidence available on record, has arrived at the total compensation of Rs.12,18,000/- with interest 9% p.a from the date of petition till the date of deposit.

3. Challenging the award of the Tribunal, the present appeal is filed by the appellant/Transport corporation.

4. The learned counsel for the appellant/ Transport Corporation submitted that the Tribunal has erred in holding that the accident had occurred due to the rash and negligent driving of the driver of the bus belonging to the appellant transport corporation. It is also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5. The learned counsel for the claimants has submitted that the Tribunal has considered the materials and evidence on record in a proper perspective and has awarded the compensation, which is just fair and reasonable and hence, the same does not require any interference in the hands of this Court.

6. Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7. Before the Tribunal, the wife of the deceased was examined as P.W.1. P.W.3/Arunagiri was the eyewitness to the accident and he has deposed that the said accident had occurred due to the rash and negligent driving of the driver of the appellant's bus driver and hence he lodged a complaint to the police. Considering the relevant materials adduced before it, the Tribunal held that both the drivers of the mini-lorry and the bus are liable to the extent of 50% for causing the accident, which this Court is not inclined to interfere.



8. With regard to the quantum of compensation, the Tribunal has considered Exs.X.1-Opinion given by the Chartered Accountants in respect of the income of the deceased and Ex.X2-statements of the income of the deceased, issued by the company M/s.Natesa Iyer & Co., Chartered Accounts, which revealed that the deceased was receiving an annual income of Rs.1,08,046/- and his HUF income was Rs.16,000/-. The Tribunal, adhering to the decision of the Hon'ble Apex Court in " The General Manager, Kerala State Road Transport corporation Vs. Susama Thomas - AIR 1994-S.C.1'" has taken the future prospects of the deceased into account, as the deceased died at the age of 23. Further, the Tribunal, taking note of the uncertainty in the business, has taken the average annual income of the deceased at Rs.2,00,000/-, deducted 1/3rd of the amount (Rs.66,000/-) towards personal expenses and arrived at the annual income of Rs.1,34,000/-. Thereafter, the Tribunal has adopted the multiplier of 18 and arrived at the loss of income at Rs.24,12,000/-. Considering the other relevant materials, the Tribunal has awarded Rs.5,000/-, Rs.10,000/- and Rs.10,000/- towards funeral expenses, loss of consortium and loss of love and affection respectively. Thus, the total amount was arrived at Rs.24,37,000/- and since the negligence on the part of the drivers of both the vehicles was fixed equally at 50%, the Tribunal directed the appellant transport corporation to pay a sum of Rs.12,18,500/- being 50% of the amount of compensation, which was rounded to Rs.12,18,000/-. The Tribunal has rightly considered the materials and evidence and has awarded the above amounts and hence the same does not require any interference by this Court.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant/Transport corporation is directed to deposit the sum of Rs.12,18,000/- with interest and costs, as ordered by the Tribunal, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgement.

10.At this juncture, it is submitted that the second respondent- minor has attained majority now. Hence, on such deposit being made by the Transport Corporation, the Tribunal is directed to transfer the deposited amount to both the claimants, as per the proportion apportioned by the Tribunal, through RTGS within one week thereafter.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

smn/srk



To

The Motor Accidents Claims Tribunal,
II Additional District Judge,
Pondicherry.

Copy To: The Section Officer, V.R. Section,
High Court, Madras.

+1cc to Mr.R. Arunmozhi, Advocate SR.No.73784

+1cc to Mr.T.R. Rajaraman, Advocate SR.No.73031

C.M.A.No.445 of 2004

NRL (CO)
GMY (18/12/2019)