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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2544 of 2007
and C.M.P.No.3095 of 2007

State Express Transport Corporation
represented by its Chairman,
Division-2, Chennai.

... Appellant

Vs

1.K.Raniammal
2.Ayyanarappan
3.K.Panneerdas
4.K.Uma
5.K.Revathi
6.S.Mathiyalazhan
(R-6 is not necessary partner,
hence given up)

... Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.12.2003 made in MCOP No.2780 of 2000 on the file of the Motor Accidents Claims Tribunal Additional District Court - cum - Sessions Court (Fast Track Court-II), Chennai.

For Appellant : Mr.V.Udayakumar

JUDGMENT

This appeal is preferred by the Transport Corporation against the award of a sum of Rs.3,67,000/-, towards compensation to the respondents 1 to 5/claimants for the death of the husband of the first respondent.

2.The case in brief is as follows:

On the fateful day i.e., on 01.02.1998 at about 2.20 p.m., the deceased-Kothandan went to Acherappakkam G.S.T Junction, Kancheepuram District. At that time a bus bearing Registration No.TN-29-N-0870, belonging to the appellant Transport Corporation came in a rash and negligent manner from North to South direction and dashed against the deceased. Due to the said impact, the deceased sustained grievous injuries and



subsequently, he died. The legal heirs of the deceased filed a claim petition before the Tribunal and the Tribunal awarded a compensation of Rs.3,67,000/-, with interest at the rate of 9% per annum from the date of petition.

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3.Challenging the same, the appellant Tribunal Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the Tribunal failed to consider the evidence of PW1, while deciding negligence on the part of the driver of the bus. Further, he submitted that the Tribunal ought to have rejected the evidence of PW2-eye witness to the occurrence, because he did not disclose the real facts. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.Heard the learned counsel for the appellant and perused materials available on record carefully.

6.This appeal was filed in the year 2007 and notice of admission was ordered on 23.10.2007. Till now, the appellant Transport Corporation has not taken any steps to serve papers to the other side.

7.PW2 was the eye-witness to the occurrence. He deposed before the Tribunal that he resides in Acherappakkam, Venkatesapuram and when he was purchasing vegetables, he saw the appellant Transport Corporation bus coming from the opposite direction and dashed against the cyclist and due to the same, the cyclist sustained injuries and thereafter, a car was brought and the injured was admitted in the Madurantakam Hospital. It is also seen that a complaint was given against the driver of the bus before the Police Station. No complaint has been given by the driver of the bus against the deceased. Considering the materials and evidence on record, the Tribunal came to the conclusion that only because of the rash and negligent driving of the driver of the bus, the accident had occurred. This Court is not inclined to interfere with the said finding.

8.With regard to the compensation awarded by the Tribunal, claimants claimed before the Tribunal that the deceased was earning a sum of Rs.5,500/-, per month by way of Soda business. Ex.P5 is the receipt for having paid the amount for obtaining licence for the said business. Relying upon the same, the Tribunal came to the conclusion that deceased would have earned a minimum of Rs.3,000/- per month and accordingly calculated the annual income at Rs.36,000/-. Thereafter, the Tribunal was of the view that the deceased would have earned for at least 13 years and accordingly calculated the loss of income at Rs.4,68,000/-. Thereafter deducting $\frac{1}{3}$ rd of the amount towards



personal expenses of the deceased, the Tribunal arrived at the sum of Rs.3,12,000/- as the contribution of the deceased to the family. The Tribunal has correctly relied upon the materials and evidence and arrived at the said sum of Rs.3,12,000/- towards the contribution of the deceased to the family and hence the same does not require any interference by this Court. The Tribunal has also awarded a sum of Rs.10,000/- towards mental agony, Rs.10,000/- towards loss of consortium, Rs.10,000/- towards loss of love and affection, Rs.10,000/- towards loss of guidance, Rs.10,000/- towards loss of happiness and Rs.5,000/- towards personal expenses. The amounts awarded towards these heads are very reasonable and hence, the same are confirmed.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10.The learned counsel for the appellant Transport Corporation is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their respective shares, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dua/KM

To

1.The Motor Accidents Claims Tribunal
Additional District Court - cum - Sessions Court
(Fast Track Court-II), Chennai.

2.The Section Officer,
VR Section, Madras High Court.

+lcc to Mr.Udayakumar, Advocate Sr.48870

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srg 18/09/2019