

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.742 of 2008

and

MP.No.1 of 2008

The Managing Director

Tamilnadu State Transport Corporation,
Corporation Ltd., Coimbatore Division II,
Chennimalai Road, Erode.

.. Appellant/2nd Respondent

Vs.

1. R.Chinnakannan

2. C.Chandi

3. N.Selvaraj

4.B.Rajendran

5. Royal Sundaram Alliance Insurance

Company Limited, Sundaram Towers,

46, Whites Road, Chennai - 14.

..1 & 2 Respondents/Petitioners 1 & 2

..3rd Respondent/1st Respondent

..4th Respondent/3rd Respondent

..5th Respondent/4th Respondent

(Fourth respondent set exparte before the Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 27.06.2007 made in M.C.O.P.No.209 of 2007 on the file of the Motor Accidents Claims Tribunal and Additional District Judge, Fast Track Court I, Erode.

For Appellant : Mr.S.V.Vasantha Kumar

For R5 : Mr.Vijaya Raghavan

For R1 & R2 : No Appearance

J U D G M E N T

This appeal is preferred by the appellant Transport Corporation against the Judgment and Decree dated 27.06.2007 passed by the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court I, Erode (for brevity, "the Tribunal"), in M.C.O.P.No.209 of 2007.

2.The respondent 1 & 2/claimants, who are the parents of one Fieula (minor), filed a claim petition, claiming compensation of Rs.3,00,000/- stating that on 27.09.2005 about 7.30am, while her

child Fieula and her relatives were traveling in the TSTC bus bearing registration No.TN-33-N-1816 from Erode to Tirupur, the driver of the bus drove the same in a rash and negligent manner with high speed and dashed against a lorry bearing Regn.No.KA-04-C-7888 coming from the opposite direction, as a result of which, the minor Fieula sustained grievous injuries and died on the way to the hospital.

3.On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,72,000/- with interest at the rate of 7.5% per annum from the date of petition. Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant Transport Corporation has disputed only the quantum of compensation awarded by the Tribunal. According to him, without any concrete material with regard to the age of the deceased, the Tribunal has erred in adopting the multiplier of 15; hence, the compensation awarded by the Tribunal is excessive and exorbitant and the same has to be reduced.

5.Despite the service of notice and the names of the respondents 1 and 2 having been printed in the cause list, there is no representation on their behalf. However, considering the passage of time, this Court is inclined to proceed with the appeal, on merits.

6.Heard the learned counsel appearing for the appellant and learned counsel appearing for the fifth respondent and perused the materials available on record carefully and meticulously.

7.Since the appellant/Transport Corporation has not disputed the manner in which the accident took place, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus, need not be interfered with by this Court.

8.The mother of the deceased was examined as P.W.6, who deposed in her evidence that the deceased was aged about 13 years and she was hale and healthy and was studying 6th standard in Government Higher Secondary School, B.P.Agraharam and she was a brilliant student. On considering the materials and evidence adduced by the parties, the Tribunal has taken the annual income of the deceased nominally at Rs.15,000/-, in which, deducted 1/3rd towards personal expenses, adopted the multiplier of 15 and quantified the compensation under the head "loss of income" at Rs.1,50,000/-. The Tribunal has correctly analyzed the income of the deceased, adopted the correct multiplier and awarded the

said sum towards the contribution of the deceased to the family and hence, the same is hereby confirmed.

8.1 That apart, the Tribunal has awarded Rs.2,000/- towards funeral expenses, Rs.10,000/- towards loss of love and affection, and Rs.10,000/- towards parents' maintenance. The Tribunal has properly analysed the materials and evidence available on record and has awarded reasonable compensation on those heads and therefore, the same need not be interfered with by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant-Transport Corporation is directed to deposit the total compensation of Rs.1,72,000/- with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the respective shares of the amount lying in the deposit to the savings bank account of the respondents 1 & 2/claimants, as per the apportionment made by the Tribunal, through RTGS within a period of one week thereafter. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

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To

1. Motor Accident Claims Tribunal,
Additional District Judge,
Fast Track Court I, Erode.

Copy to

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

+1 CC to Mr.N. Vijaya Raghavan, Advocate sr 56086.

C.M.A.No.742 of 2008
and
MP.No.1 of 2008

SPD (CO)
SP (12/02/2020)