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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.866 of 2019
and
C.M.P.No.2430 of 2019

The TamilNadu State Transport Corporation,
Coimbatore Division II Rep. By its,
Managing Director.

.. Appellant

Vs.

1.Vasanth
2.Minor Varna
3.Minor Dharani
4.Madhavi
[Minors rep.by their mother
and guardian R1]

5.Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Div.I, Rep.by its
Managing Director.

.. Respondents

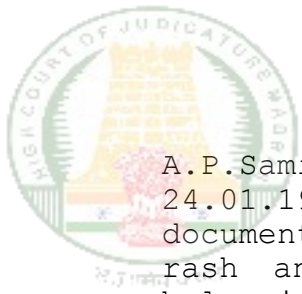
Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accident Claims Tribunal, Principal District Judge, Erode in M.C.O.P.No.275 of 2001 dated 24.02.2004.

For Appellant : Mr.S.V.Vasanthakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant-Transport Corporation, challenging the judgment and decree passed by the Motor Accident Claims Tribunal, Principal District Judge, Erode in M.C.O.P.No.275 of 2001 dated 24.02.2004.

2. The appellant-Transport Corporation is the 2nd respondent in M.C.O.P.No.275 of 2001, on the file of the Motor Accident Claims Tribunal, Principal District Judge, Erode. The respondents 1 to 4 filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the death of one



A.P.Saminathan who died in the accident that took place on 24.01.1999. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by both the drivers of the bus belonging to the appellant-Transport Corporation as well as the 5th respondent and fixed negligence equally upon them and directed the appellant-Transport Corporation to pay a sum of Rs.4,00,000/- being 50% of the award amount as compensation to the respondents 1 to 4. Challenging the said award dated 24.02.2004 made in M.C.O.P.No.275 of 2001, granting compensation to the respondents 1 to 4, the appellant-Transport Corporation has come out with the present appeal.

3. The learned counsel appearing for the appellant-Transport Corporation contended that the Tribunal ought to have fixed the entire negligence on the driver of the bus belonging to the fifth respondent and erred in fixing 50% liability on the appellant by merely relying on the evidence of PW3 who is an interested witness and failed to note that no police officer was examined to prove the negligence on the part of the driver of the bus. The Tribunal erred in fixing the monthly income of the deceased at Rs.6,000/- and multiplier 16 without any basis. In any event, the amounts awarded by the Tribunal under different heads are excessive.

4. Heard the learned counsel appearing for the appellant and perused the materials available on record.

5. From the materials on record, it is seen that the accident occurred due to the rash and negligent driving by the drivers of both the buses. It is an head on collision. Hence, the Tribunal fixed equal negligence on both the drivers of the buses belonging to the appellant-Transport Corporation and the 5th respondent. There is no error in the said finding of the Tribunal warranting interference by this Court. As far as quantum of compensation is concerned, the 1st respondent in her deposition has stated that her husband was 40 years at the time of accident and was running a shop by name A.P.S.Electricals & Furniture Mart at Arachalur and also a fancy store in the name & style of Dharani Fancy Stores and was earning a sum of Rs.10,000/- per month. In support of their contention, they marked Exs.P4 to P7. The Tribunal, considering the evidence of PW1 and Exs.P4 to P7, fixed the monthly income of the deceased at Rs.6,000/- which is not excessive. The deceased was aged 40 years and the Tribunal has not awarded any amount towards future prospects. The Tribunal applied multiplier 16 as per II Schedule under Section 163-A of Motor Vehicles Act and after deducting $1/3^{\text{rd}}$ towards personal expenses, awarded a sum of Rs.7,68,000/- $[6000 \times 12 \times 16 \times 2/3]$ as compensation towards



loss of income. The Tribunal, on perusal of oral and documentary evidence in proper perspective awarded a sum of Rs.8,00,000/- as compensation to the respondents 1 to 4 under different heads which is just and reasonable. Hence, this Court is not inclined to interfere with the award of the Tribunal.

6. In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.8,00,000/- awarded by the Tribunal as compensation to the respondents 1 to 4, along with interest and costs is confirmed. The appellant/Transport Corporation is directed to deposit 50% of the award amount, i.e. Rs.4,00,000/- alongwith interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 & 4 are permitted to withdraw their share of the award amount, on the basis of apportionment fixed by the Tribunal, along with interest and costs, less the amount if any, already withdrawn. The share of the minor respondents 2 & 3 are directed to be deposited in any one of the Nationalised Banks, till they attain majority. The first respondent being the mother of the minors is permitted to withdraw the interest accrued on the deposit, once in three months for the welfare of the minors. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

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Sub-Assistant Registrar

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To

1.The Principal District Judge,
Motor Accident Claims Tribunal,
Erode.

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

+1 cc to M/s.S.V.vasantha Kumar Advocate sr7639

C.M.A.No.866 of 2019 and
C.M.P.No.2430 of 2019

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