



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.No.1876 of 2020

and

CMP No.13882 of 2020

The Managing Director,  
Tamilnadu State Transport Corporation Ltd.,  
Kumbakonam Division II,  
Periyamilaguparai,  
Tiruchirapalli-Dt.

... Appellant/Respondent

Vs.

1. S. Rani

2. S. Mohanapriya

... Respondents/Petitioners

PRAYER:- Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act, 1988, to set aside the award passed by the Motor Accident Claims Tribunal, Sessions Court, Perambalur, in MCOP No.74 of 2016, dated 12.12.2019.

For Appellant : Mr. D.Venkatachalam

#### J U D G M E N T

Feeling aggrieved with the award passed by the tribunal, the appellant/Transport Corporation is before this Court with this appeal.

2. The case of the claimant in brief is as follows:-

It is the case of fatal accident. On 13.10.2015, at about 08.30 p.m., while the deceased, by name, Mohn @ Mohanaraj, aged about 22 years, was riding the bicycle in Thuraiyur-Tiruchirappalli main road, the bus bearing Registration No. TN 45 N 2035, belongs to the respondent Corporation, came in a rash and negligent manner and hit the deceased from his behind, in which, he sustained fatal injuries. Immediately, he was taken to Government Hospital, Thuraiyur and thereafter admitted in Government Hospital,



Tiruchirappalli as inpatient for 15 days, where, he died on 27.10.2015. Hence, claiming compensation of Rs.10 lakhs, claim petition has been filed.

3. The respondent/Transport Corporation contested the claim petition on the ground that the accident has taken place due negligent act of the deceased. Since the deceased suddenly tried to cross the road from left side to right side without noticing the on coming bus, dashed against the bus and sustained injury and the driver of the bus cannot be fixed with any negligence. The Transport Corporation also disputed the monthly income of the deceased.

4. In order to prove the case, before the Tribunal, the first claimant examined herself as P.W.1 and an eye-witness to the occurrence as P.W.2 and marked as many as 5 exhibits. On the side of the respondent, the driver of the TNSTC bus was examined as RW1 the final report has been marked as Ex.R.1.

5. The Tribunal, after considering the materials, including the evidence of the eye-witness, has held that the accident has taken place due to the rash and negligent driving of the driver of the bus, however, since the deceased was under the influence of alcohol, the Tribunal fixed 15% contributory negligence on the part of the deceased and fixed 85% on the driver of the bus. In respect of quantum of compensation, the tribunal fixed the monthly income at Rs.12000/- per month and adding 40% towards future prospects and deducting 1/2 towards personal expenses, and applying the multiplier of 18, arrived at a loss of dependency at Rs.18,14,400. In respect of other heads, the Tribunal has awarded a sum of Rs.15,000/- towards loss of estate, and a sum of Rs.15,000/- towards funeral expenses, in total a sum of Rs.18,44,400/- was awarded by the Tribunal towards compensation. Out of the said sum of Rs.18,44,400/- 15% was deducted for the contributory negligence fixed on the deceased and a sum of Rs.15,67,740/- was awarded as compensation. Now, aggrieved over the same, the Transport Corporation is before this Court with this appeal.

6. The learned counsel appearing for the appellant would submit that the accident has taken place only due to the negligent act of the deceased. The deceased was riding the cycle in a drunken mood and he suddenly crossed the road without noticing the oncoming bus and hit against the bus and sustained injuries and no negligence can be fixed on the transport corporation bus. That apart, the accident has taken place in the year 2015 and the Tribunal fixed the monthly income at Rs.12000/-, which is on higher side. He would also submit that the quantum of compensation awarded by the Tribunal is also on higher side.



7. I have considered the submission made by the learned counsel for the petitioner and perused the materials available on records carefully.

8. So far as negligence is concerned, an eye-witness to the occurrence, who was a stranger, was examined as P.W.2. He has clearly deposed that the accident has taken place only due to the negligence of the driver of the bus. The respondent Transport Corporation examined the driver of the bus as RW1. Even though he has stated that the deceased was in intoxicated mood tried to cross the road, there is no evidence to substantiate the same. Merely because the criminal case registered against the driver of the bus was closed as mistake of fact, it cannot be held that the accident has taken place due to the negligence on the part of the deceased. Considering the facts and circumstances, the Tribunal has rightly fixed 15% contributory negligence on the deceased and this Court finds no error in the same.

9. So far as the quantum of compensation is concerned, the accident has taken place in the year 2015 and the deceased was 22 years old young man and admittedly, he was a washer man and skilled labour and hence, the Tribunal rightly fixed the monthly income of the deceased at Rs.12,000/- and as per the guidelines issued by the Hon'ble Supreme Court in Pranay Sethi's case, added 40% towards future prospects and deducted 50% towards personal expenses and applying multiplier of 18, arrived at the loss of dependency at Rs.18,14,400/-. And in respect of other heads also the Tribunal correctly awarded the amount. In the said circumstances, this Court does not find any error in the order passed by the Tribunal and there is no reason to interfere with the same and this Court finds no merit in the appeal.

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

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp



To:

The Motor Accidents Claims Tribunal,  
Sessions Court,  
Perambalur.

+1cc to Mr.D.Venkatachalam, Advocate Sr No.41943

C.M.A.No.1876 of 2020

AKII (CO)  
PR (22/11/2021)