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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1678 of 2014

and

M.P.No.1 of 2014

The Managing Director

State Express Transport Corporation Ltd.

Chennai.

... Appellant/Respondent

Vs.

1.Andal

2.Madhurammal

3.Veeravel

4.Kamalam

5.Parvathi

6.Amsavalli

... Respondents/Petitioners/Claimants

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 23.10.2013 made in M.C.O.P.No.200 of 2011 on the file of Motor Accident Claims Tribunal, Additional Sub Court, Virudhachalam.

For Appellant

: Mr.K.J.Sivakumar

J U D G M E N T

This matter is heard through "Video-Conferencing".

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation challenging the award dated 23.10.2013 made in M.C.O.P.No.200 of 2011 on the file of Motor Accident Claims Tribunal, Additional Sub Court, Virudhachalam.

2.The appellant/Transport Corporation is the respondent in M.C.O.P.No.200 of 2011 on the file of Motor Accident Claims Tribunal, Additional Sub Court, Virudhachalam. The respondents filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the death of one Kuzhandhaivel @ Mannankatti, who died in the accident that took place on



13.03.2011.

3. According to the respondents, on the date of accident i.e., on 13.03.2011 at 9.45 a.m., while the deceased was moving his cycle from Veppur Eastern side service road to Veppur Bus Stand and standing on the service Road to cross Chennai - Trichy National Highways Road, the bus belonging to the appellant/Transport Corporation, which was coming from Trichy to Chennai, driven by its driver in a rash and negligent manner, dashed against the deceased and caused the accident. In the accident, the deceased Kuzhandhaivel @ Mannankatti sustained injuries and inspite of treatment, died in the hospital. Hence, the respondents have filed the above claim petition claiming compensation against the appellant.

4. The appellant/Transport Corporation filed counter statement denying the averments made by the respondents and contended that the driver of the bus is not responsible for the accident. The deceased alone suddenly crossed the road and met with an accident. The accident has occurred due to negligence of the deceased and hence, the deceased is solely responsible for the accident. Therefore, the appellant is not liable to pay any compensation to the respondents. The appellant has also denied the age, avocation and income of the deceased. In any event, the compensation claimed by the respondents is excessive and prayed for dismissal of the claim petition.

5. Before the Tribunal, the 1st respondent, wife of the deceased, examined herself as P.W.1, one Samikkannu, an eye-witness to the accident, was examined as P.W.2 and five documents were marked as Exs.P1 to P5. The appellant/Transport Corporation examined Malaiyappan, the driver of the bus as R.W.1 and marked the judgment of the Criminal Court as Ex.R1.

6. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation and directed the appellant to pay a sum of Rs.4,78,500/- as compensation to the respondents.

7. Against the said award dated 23.10.2013 made in M.C.O.P.No.200 of 2011 granting compensation to the respondents, the appellant/Transport Corporation has come out with the present appeal.

8. The learned counsel appearing for the appellant/Transport Corporation contended that the Tribunal failed to consider that the deceased without noticing the oncoming vehicle, suddenly crossed the road and met with an accident. The Tribunal erred in



fixing entire negligence on the part of the driver of the bus belonging to the appellant/Transport Corporation. The Tribunal erred in holding that had the driver of the bus belonging to the appellant saw both sides way of the bus in the side mirror, the accident could have been avoided. The Tribunal ought to have considered the evidence of the driver of the bus as R.W.1. The learned counsel further contended that the amounts awarded by the Tribunal under different heads are excessive and prayed for setting aside the award of the Tribunal.

9. Heard the learned counsel appearing for the appellant/Transport Corporation and perused the materials available on record.

10. From the materials available on record, it is seen that it is the contention of the respondents that while the deceased was standing on the service road to cross Trichy - Chennai National Highways Road, the driver of the bus belonging to the appellant drove the bus in a rash and negligent manner, dashed against the deceased and caused the accident. The respondents have examined P.W.2/Samikkanu, an eye-witness to the accident and marked the F.I.R., which was registered against the driver of the bus as Ex.P1, to substantiate their contention. On the other hand, it is the contention of the appellant/Transport Corporation that the deceased suddenly crossed the road without noticing the oncoming bus and met with an accident. Therefore, the accident has occurred only due to negligence on the part of the deceased. The driver of the bus was acquitted by the Criminal Court. To substantiate their contention, the driver of the bus was examined as R.W.1 and the judgment of the Criminal Court was marked as Ex.R1. The appellant has not let in any independent witness to prove their contention. The driver of the bus has not filed any objection to the contents of F.I.R. and has not lodged any complaint against the deceased. The Tribunal considering the evidence of P.W.1, P.W.2, contents of Ex.P1/F.I.R and failure on the part of the appellant to examine any independent eye-witness, held that the accident has occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation and directed the appellant to pay the compensation to the respondents. There is no error in the said finding of the Tribunal warranting interference by this Court.

11. As far as quantum of compensation is concerned, the Tribunal after considering both oral and documentary evidence, awarded compensation to the respondents, which is not excessive and the same does not warrant any interference by this Court.

12. In the result, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.4,78,500/- awarded by the Tribunal



as compensation to the respondents along with interest and costs is confirmed. The appellant/Transport Corporation is directed to deposit the entire award amount along with 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 are permitted to withdraw their respective share of the award amount, on the basis of apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal
TheAdditional Subordinate Judge
Virudhachalam.

2.The Section Officer
VR Section
High Court
Madras.

+lcc to Mr.K.J.Sivakumar, Advocate SR.40985

C.M.A.No.1678 of 2014
and M.P.No.1 of 2014

BS (CO)
CB(17/08/2021)