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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2020

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.No.1823 of 2020

and

CMP No.13494 of 2020

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Villupuram,
Kancheepuram Region-631 502

...Appellant

Vs.

1. Muniyan

2. Neela

...Respondents

PRAYER:- Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 22.08.2019 passed in MCOP No.182 of 2015 on the file of the Motor Accidents Claims Tribunal, Additional District Court (FTC) Kancheepuram.

For Appellant : Mr. C.S.K.Sathish

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:-

On 07.09.2014, at about 07.00 p.m., while the deceased was riding his two wheeler, from Manganyam to Tiruvellore Road, near Thodukadu Aqua Technical Fridge Fabrication Company, a bus bearing registration No.TN.21 N 1302, belongs to the Transport Corporation, came in a rash and negligent manner and dashed against the deceased, in which, the deceased died on the spot. At the time of accident, the deceased was 25 years old bachelor and he was working as a Contract Labour and earning a sum of Rs.6,734/- per month. 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 driver of the Corporation bus has driven the bus slowly, but the deceased came in a rash negligent manner and dashed against the number plate of the bus and fell down and died on the spot. Immediately, the driver of the bus has also given a First Information Report against the deceased stating that due to the negligent act of the deceased the accident has taken place. Hence, the respondent is not liable to pay the compensation. 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 himself as P.W.1 and an eye-witness to the occurrence as P.W.2 and marked as many as 6 exhibits. On the side of the respondent, the driver of the TNSTC bus was examined as RW1. No documentary evidence has been adduced on the side of the respondent.

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 and fixed the negligence on the driver of the bus. In respect of quantum of compensation, the tribunal fixed the monthly income at Rs.5400/- per month and adding 40% towards future prospects and deducting 1/2 towards personal expenses, fixed the notional income of the deceased at Rs.3780/- and applying multiplier of 18, arrived at a loss of dependency at Rs.8,16,480/-. In respect of other heads, the Tribunal has awarded a sum of Rs.40,000/- towards loss of filial consortium, a sum of Rs.15,000/- towards funeral expenses, a sum of Rs.15,000/- towards loss of estate and in total a sum of Rs.8,86,480/- was awarded by the Tribunal towards 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 negligence driving of the deceased. That apart, immediately, the driver of the bus has given a complaint against the deceased stating that only due to the negligent driving of the deceased the occurrence has taken place and First Information Report was also registered against the deceased. However, without considering the same, the Tribunal fixed the negligence on the driver of the Transport Corporation. That Apart, the Tribunal fixed the monthly income of the deceased at Rs.6734/-, based on Ex.P.6 Wage slip, which is also 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, eye-witness to the occurrence was examined as P.W.2. He has clearly stated that the accident has taken place due to the negligence driving of the driver of the bus. According to RW1, who is the driver of the bus, the deceased came in a rash and negligent manner and dashed against the number plate of the bus. However, the Corporation has not taken any steps to mark the MV Report or any other document to substantiate the same. Considering all the above materials, the Tribunal has rightly held that the accident has taken place only due to the rash and negligent driving of the driver of the bus.

9. So far as the quantum of compensation is concerned, the accident has taken place in the year 2014 and the deceased was 25 years old young man and his salary certificate was also marked as Ex.P.6 and hence, the Tribunal rightly fixed the monthly income of the deceased at Rs.5400/- and added 40% towards future prospects and deducted 50% towards personal expenses and applying multiplier of 18, arrived at the loss of dependency at Rs.8,16,480/- 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.

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

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mrp
To:

The Motor Accidents Claims Tribunal,
Additional District Court (FTC), Kancheepuram.

C.M.A.No.1823 of 2020

AKII(CO)
SP(02/11/2021)