

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-08-2020

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A. No.4644 of 2019

And

C.M.P.No.26299 of 2019

The Managing Director,
State Express Transport
Corporation Tamilnadu Ltd.,
Pallavan Salai,
Chennai.

.. Appellant/ Respondent

vs.

1.B.Dhilshath Begam

2.Minor B.Sajna

3.Minor B.Shaheena

[R-2 and R-3 represented by their Natural Guardian/
Next Friend mother B.Dhilshath Begam]

4.Puranmubarak alias Puranbai .. Respondents/ Claimants

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 24.09.2018 passed in M.C.O.P. No.452 of 2015 on the file of the learned District Judge, District Court No.II-cum-Motor Accidents Claims Tribunal, Kanchipuram.

For Appellant : Mr.K.Kathiresan

For Respondents-1 to 4 : Mr.C.Prabakaran

J U D G M E N T

The appellant-State Express Transport Corporation Tamilnadu Limited has preferred the present Civil Miscellaneous Appeal against the judgment and decree dated 24.09.2018 passed in M.C.O.P. No.452 of 2015 on the file of the learned District Judge, District Court No.II-cum-Motor Accidents Claims Tribunal, Kanchipuram.

2. The facts in nutshell to be considered are that on 01.05.2009 at about 10.30 P.M., the deceased was walking from Karunkuzhi Bus Stop towards a Tea Shop on the extreme left side of the mud road and according to the traffic rules and regulations. Near Karunkuzhi Village Main Road on the GST High Road, the appellant-Government State Express Ultra Deluxe Bus was driven by the driver and was proceeding from Chennai to Tindivanam. The appellant-Corporation Bus was driven in a rash and negligent manner and suddenly turned towards wrong side of the road and hit behind the deceased. Due to the accident, the deceased sustained multiple grievous injuries all over the body and died instantly on the spot.

3. The Tribunal considered the documents as well as the evidences and arrived a conclusion that the accident occurred solely due to the rash and negligent driving of the appellant-Corporation Bus driver. The facts and circumstances portrays that the accident occurred due to the rash and negligent driving of the appellant-Transport Corporation bus driver and therefore, this Court is not inclined to interfere with the findings of the Tribunal in this regard.

4. The Tribunal relied on the evidences of PWs 2 and 3. Both the witnesses categorically deposed that the accident occurred due to the rash and negligent driving of the appellant-Transport Corporation bus driver. The FIR was registered against the Government Express Transport Corporation and the Tribunal has not committed any error and arrived a conclusion that the Transport Corporation bus driver was responsible for the accident.

5. As far as the quantum of compensation is concerned, the claimants are the wife as well as the two minor children. The Tribunal considered the fact that the deceased was the sole breadwinner of the family, as the wife and the two minor children are the claimants, calculated the compensation. The deceased was self-employed and was running a Tea Shop.

6. Though the monthly income of the deceased was stated as Rs.15,000/- per month, the Tribunal has fixed Rs.6,000/- as monthly income. Future prospects of 25% was ordered. Accordingly, the income of the future prospects to be taken as Rs.7,500/- (Rs.6,000/-+Rs.1,500/-). The accident occurred in the year 2009. Under these circumstances, this Court do not find any error in the matter of considering the case of the claimants for grant of compensation, by fixing the monthly income of the deceased as Rs.6,000/-. The compensation was granted in other heads also. The total compensation granted by the Tribunal is Rs.11,22,500/-.

7. The learned counsel appearing on behalf of the appellant-Transport Corporation contended that the negligence on the part of the deceased was not considered by the Tribunal and the future prospects of 25% granted by the Tribunal is also erroneous.

8. At the outset, it is contended that the compensation granted by the Tribunal is exorbitant and therefore, the award of the Tribunal is liable to be set aside.

9. This Court is of the considered opinion that the claimants are wife and two minor children of the deceased, who are running a Tea Shop. The monthly income fixed by the Tribunal is Rs.6,000/-. The accident occurred in the year 2009. Therefore, this Court do not find any perversity or error in fixing the monthly income of the deceased. In fact, the deceased was self-employed and regarding the monthly income of self-employed people, it may higher than that of the monthly income fixed by the Tribunal.

10. However, there is no document to establish the actual income of the deceased person and therefore, this Court is of the opinion that the monthly income of Rs.6,000/-, fixed by the Tribunal, is to be taken. The total compensation of Rs.11,22,500/- cannot be said to be excessive, as the two minor children of the deceased are there and therefore, no interference is to be undertaken as far as the compensation part of the award is concerned. The grounds raised by the appellant-Transport Corporation deserve no merit consideration.

11. Accordingly, the judgment and decree dated 24.09.2018 passed in M.C.O.P. No.452 of 2015 on the file of the learned District Judge, District Court No.II-cum-Motor Accidents Claims Tribunal, Kanchipuram stands confirmed and consequently, the C.M.A.No.4644 of 2019 stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

12. The appellant-Transport Corporation is directed to deposit the entire Award amount with accrued interest, if not already deposited, within a period of 12 weeks from the date of receipt of a copy of this judgment and on such deposit being made, the claimants are permitted to withdraw the award amount as per the apportionment granted by the Tribunal by filing appropriate applications. The payments are to be made through RTGS. If the minors have not attained the age of

majority, then their portion of the amount is to be deposited in any one of the Nationalised Bank till they attain majority under the Interest Bearing Deposit Scheme.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

Svn

To

1.The District Judge,
District Court No.II-cum-Motor Accidents Claims Tribunal,
Kanchipuram.

2.The Managing Director,
State Express Transport
Corporation Tamilnadu Ltd.,
Pallavan Salai,
Chennai.

Copy to

The Section Officer
VR Section
High Court, Madras

CMA No.4644 of 2019

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