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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2021

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.1463 of 2021 and  
C.M.P.No.7626 of 2021

The General Manager,  
Tamil Nadu State Transport Corporation Ltd.,  
Thiruchurapalli.

...Appellant

vs.

1. Vijayasanthi  
2. Minor. Keshika  
3. Minor. Suganthan  
Minors 2 and 3 rep by their mother Vijayasanthi  
4. Jeyamani  
5. Natarajan  
6. The Administrator,  
United India Insurance Company Limited,  
50 A, Pallivasal Street,  
Perambalur (Dt) - 621 212.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 02.11.2020 made in M.C.O.P.No. 106 of 2014 on the file of the Motor Accident Claims Tribunal, Additional District & Sessions Judge, Ariyalur.

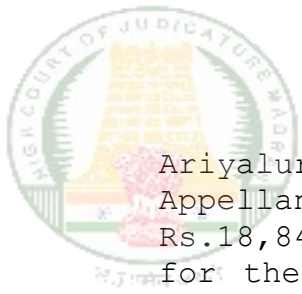
For Appellant : Mr. D. Venkatachalam

For Respondents : Mr. R. Jayaprakash for R1 to R4  
Mr.M.J.Vijayaraghavan for R6  
No appearance for R5

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J U D G M E N T

This Appeal has been filed by the Transport Corporation challenging the Award dated 02.11.2020 passed by the Motor Accident Claims Tribunal, Additional District and Sessions Judge,



Ariyalur, in M.C.O.P.No. 106 of 2014, directing the Appellant/Transport Corporation to Claimants 50% of Rs.18,84,400/- (the total compensation awarded by the Tribunal) for the death of the deceased, who succumbed to the injuries sustained in an accident which occurred on 06.08.2013 involving the bus owned by the Appellant/Transport Corporation. Respondents 1 to 4/Claimants are the dependants of the deceased viz., wife, daughter, Son and mother.

2. Before the Tribunal, the Respondents/Claimants claimed a sum of Rs.20,00,000/- as compensation for the injuries sustained by him. On the side of the First Respondent/Claimant, P.W.1 to P.W.3 were examined as witnesses and Exs.P1 to P17 were marked before the Tribunal. On the side of the Appellant/Transport Corporation, R.W.1 to R.W.3 were examined as witnesses and Ex.R1 to R3 were marked.

3. On consideration of the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.18,84,400/- as compensation to the Respondents 1 to 4/Claimants. Details of the compensation awarded by the Tribunal under the impugned Award, are as follows :

| Heads              | Amount awarded by the Tribunal (Rs.) |
|--------------------|--------------------------------------|
| Loss of Income     | 18,14,400                            |
| Loss of Estate     | 15,000                               |
| Funeral expenses   | 15,000                               |
| Loss of consortium | 40,000                               |
| Total              | Rs.18,84,400/-                       |

4. Heard the learned counsel for the parties and perused the material documents available on record.

5. The Appellant has challenged the impugned award on the ground that the learned Trial Judge failed to consider the F.I.R which has been registered against the driver of the Tata Sumo. He further submitted that the Claims Tribunal has erroneously fixed 50% negligence on the side of the Appellant/Transport Corporation. He further submitted that the Tribunal has fixed the monthly income of the deceased @ Rs.9,000/- which is on the higher side. He further submitted that the overall compensation awarded to the Claimants are very high and the same needs to be reduced.



6. Insofar as the first contention raised by the Appellant is concerned, though F.I.R has been registered against the driver of the Tata Sumo, from Exs.R1 &R2 -Rough sketch, it is clear that the accident occurred not only due to the negligence on the part of the driver of the Tata Sumo, but also on the part of the driver of the Transport Corporation. By taking note of the fact that the Appellant's vehicle is a heavy vehicle and the major loss would be caused to TATA SUMO vehicle, as it is lighter one, had rightly fixed negligence on the driver of both vehicles. Therefore, the Judgment and Decree passed by the Motor Accident Claims Tribunal, Additional District and Sessions Judge, Ariyalur, fixing joint liability on the Appellant/Transport Corporation & 6th Respondent/ Insurance company is perfectly right and the same needs to be confirmed.

7. Insofar as the income of the deceased is concerned, the Tribunal by taking note of the fact that the deceased was a driver by profession at the time of accident, has rightly fixed Rs.300/- per day and the monthly income of the deceased at Rs.9,000/- which is just and proper and the same need not be interfered with. As there are four dependants for the deceased, by deducting 1/4<sup>th</sup> of the monthly income is deducted towards personal expenses as per the decision of the Honourable Supreme Court in the case of Sarla Verma and others Vs. Delhi Transport Corporation and another, reported in, 2009(2) TN MAC (SC), and by adding 40% towards future prospects as per the Judgment of the Supreme Court in the case of National Insurance Company Limited Vs. Pranay Sethi and others, reported in 2017 STPL 13374 SC and by adopting multiplier 16, the Claims Tribunal has rightly fixed the loss of earning of the deceased at Rs.18,14,400/- - (Rs.9000x12+Rs.3,600 (Rs.9000x40/100)- 1/4 i.e., 3150 x16) which is not said to be excessive and the same does not warrant interference.

8. Further as the Claimants lost the deceased who is the husband of the First Claimant, the Tribunal has rightly awarded compensation towards the Loss of Consortium to the First Claimant at Rs.40,000/- and further no compensation has been awarded towards Love and Affection and hence this Court finds that the compensation awarded by the Tribunal is very meagre.

9. Considering the fact that the Claimants lost the deceased, who is the sole bread winner of the family, the quantum of compensation awarded by the Tribunal to the Respondents 1 to 4/Claimants under various heads, totalling a sum of Rs.18,84,400/-, cannot be considered to be excessive, as alleged by the Appellant/ Transport Corporation. For the foregoing



reasons, this Court does not find any merit in this Appeal and accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10. The Appellant/Transport Corporation and the Insurance company/Sixth respondent are directed to deposit 50% each the entire amount awarded by the Tribunal together with interest at 7.5% per annum from the date of the Claim Petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P.No.106 of 2014 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Judge, Ariyalur within a period of four months from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the Award amount, as apportioned by the Tribunal directly to the Bank account of the Respondents/Claimants 1 and 4 through RTGS within a period of two weeks thereafter. The share of the minor respondents/claimants viz., Respondents/Claimants 2 and 3 are directed to be deposited in any one of the Nationalised Banks till they attain majority and the interest accrued thereon shall be withdrawn by the First Respondent/Mother once in three months.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

(arr)/(shk)

To:

1.The Motor accident Claims Tribunal,  
Additional District and sessions Judge,  
Ariyalur.

2.The Section Officer,  
V.R. Section,  
High Court of Madras,  
Chennai 600 104.

+1cc to Mr.D.Venkatachalam, Advocate SR.No.41880

+1cc to Mr.R.Jayaprakash, Advocate SR.No.41795

C.M.A. No.1463 of 2021

JP-II(CO)

CB(09/12/2021)