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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2021

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

CMA No.1526 of 2010

1. Abusama
2. Parveen Banu
3. Minor Babu ... Appellants/Claimants 1 to 3

..vs..

1.Maimoon Beevi ...4th Claimant/1st Respondent
2.S.Ayyappan
3.Tamil Nadu State Transport Corporation
(Coimbatore Division) Ltd.,
Erode, represented by its Managing Director,
Chennimalai Road,
Erode. ... Respondents 2 & 3/Respondents 1 & 2

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 16.12.2009 made in M.C.O.P.No.211 of 2008, on the file of the Motor Accidents Claims Tribunal, Additional District Judge cum Fast Tract Court No.I, Erode.

For Appellant : Mr. R.Rajashamagayathri
For Mr.K.Govi Ganesan

For Respondent : Mr.K.J. Sivakumar - R3
Notice unserved - R1
Notice Served - R2

J U D G M E N T

Dissatisfied with the judgment and decree, dated 16.12.2009, passed by the tribunal, the appellants/claimants 1to 3 are before this Court to set aside the apportionment of compensation granted to the 4th claimant.

2. The case of the claimants before the tribunal is that on 01.10.2007 at about 8.00pm the deceased Mohammed Rasool was driving the motor cycle bearing Reg.No. TN33 AY 8824 by



observing all the traffic rules. At the time, near Maharani College, the 2nd respondent herein/driver of the transport corporation bus bearing Reg.No. TN33 N 1845 drove the bus at a high speed in a rash and negligent manner and dashed against the said Mohammed Rasool, due to which, he sustained severe injuries and died on way to hospital. Hence, the claimants 1 to 4, who are the wife, son, daughter and sister of the deceased filed a claim petition, claiming compensation of Rs.7,50,000/- for the death of the deceased Mohammed Rasool.

3. The tribunal after analyzing both oral and documentary evidences, has fixed the negligence on the driver of the transport corporation bus and directed the transport corporation to pay the compensation of Rs.3,90,000/- along with interest at the rate of 7.5% p.a from the date of petition till realization.

4. The learned counsel appearing for the appellants/claimants 1 to 3 has submitted that the tribunal failed to consider the evidence of PW1, who deposed that 4th claimant was spinster at the time of filing claim petition and subsequently she got married and she is living with her husband at her matrimonial home. The learned counsel has further submitted that the 1st respondent herein after marriage cannot be considered as a dependant of the deceased and she is not entitled for compensation. Hence prayed to set aside the compensation awarded to the 4th claimant/1st respondent.

5. Heard the learned counsel for the appellants and the learned counsel appearing for the 3rd respondent/Transport Corporation and perused the documents available on record.

6. Neither the appellants nor transport corporation had challenged the liability or quantum in the appeal. The only ground raised in the appeal is against the compensation awarded by the tribunal to the sister of the deceased/1st respondent herein.

7. It is clear from the claim petition and the award passed by the tribunal that the 4th claimant/1st respondent herein who is the sister of the deceased was unmarried at the time of the accident and she was depending on the income of the deceased. Further, no proof was placed before the tribunal that she was subsequently got married, pending claim petition. Therefore, this Court finds no force on the contention raised by the learned counsel for the appellants.

8. In view of the above, this Civil Miscellaneous Appeal is dismissed as devoid of merits. This Court holds that the 1st respondent herein/sister of the deceased is entitled for



compensation and accordingly, the apportionment of compensation awarded by the tribunal to the 1st respondent/4th claimant is confirmed. No costs.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District Judge cum Fast Tract Court No.I,
(Motor Accidents Claims Tribunal),
Erode.
2. The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.K.J.Sivakumar, Advocate Sr.10752
+1cc to Mr.Govi Ganesan, Advocate Sr.10193

CMA.No.1526 of 2010

ad[co]
srg 24/09/2021