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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.M.A.Nos.3784 to 3786 of 2008 and
MP.No.1 of 2008

CMA.No.3784 of 2008

The Managing Director,
The Tamilnadu State Express Transport
Corporation Ltd., Chennai-2. ... Appellant/Respondent

Versus

1.Minor Saranya
2.Minor Rukkumani
Minors are rep by their
Grandmother ... Respondents/Claimants

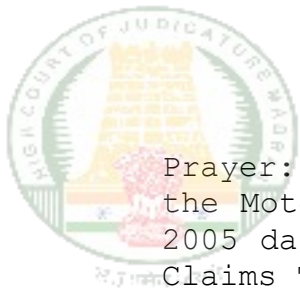
Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the award made in MCOP.No.416 of 2005 dated 30.11.2006 on the file of the Motor Vehicles Accident Claims Tribunal and Sub Court at Gingee.

CMA.No.3785 of 2008:

The Managing Director,
The Tamilnadu State Express Transport
Corporation Ltd., Chennai-2. ... Appellant

Versus

1.R.Thulasi
2.Renuka
3.Hariraman
4.Minियammal
5.Minor Saranya
6.Minor Rukkumani
Minors are rep by their
Grandmother ... Respondents



Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the award made in MCOP.No.417 of 2005 dated 30.11.2006 on the file of the Motor Vehicles Accident Claims Tribunal and Sub Court at Gingee.

CMA.No.3786 of 2008

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

... Appellant

Versus

1.R.Thulasi
2.Renuka
3.Minor Saranya
4.Minor Rukkumani

Minors are rep by their
Grandmother

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the award made in MCOP.No.141 of 2005 dated 30.11.2006 on the file of the Motor Vehicles Accident Claims Tribunal and Sub Court at Gingee.

For Appellant
in all CMA's : Mr.V.S.Vasanth Kumar

For Respondents
in all CMA's : No Appearance

COMMON JUDGMENT

These appeals have been laid as against the award made in MCOP.Nos.416, 417 & 141 of 2005 dated 30.11.2006 on the file of the Motor Vehicles Accident Claims Tribunal and Sub Court at Gingee.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal.

3. The case of the claimants is that on 06.06.2004 at about 8.30 p.m., when the claimants and the deceased were travelling in a motor cycle, the bus owned by the respondent driven by its driver driving in a rash and negligent manner hit the motor cycle. Therefore, the deceased persons sustained



grievous injuries and died. The legal heirs of the deceased Saravanan, the legal heirs of the deceased Chinnaponnu @ Anjalakshi and the legal heirs of the deceased minor Radha filed separate claim petitions.

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4. Resisting the same, the respondent filed counter stating that only because of rash and negligent driving of the deceased, the accident took place and as such the respondent is not liable to pay any compensation as claimed by the claimants and sought for dismissal of the claim petitions.

5. On the side of the claimants, they examined P.W.1 to P.W.3 and marked Ex.P.1 to Ex.P.4. On the side of the respondent, examined R.W.1 and no documentary evidence was let in. On the basis of the evidence available on records and also considering the submission made by the learned counsel appearing on either side, the Tribunal awarded Rs.2,70,000/- in MCOP.No.416 of 2005, Rs.8,56,000/- in MCOP.No.417 of 2005 and Rs.9,71,000/- in MCOP.No.141 of 2006. Aggrieved by the quantum of the compensation awarded by the Tribunal, the respondent came forward with the present appeals.

6. The learned counsel appearing for the appellant submits that the Tribunal failed to consider that the accident was not happened due to the rash and negligent driving of the respondent. Only on the rash and negligent driving of the deceased driver of the two wheeler, the accident took place and as such the respondent is not liable to pay compensation. Further, the Tribunal erroneously applied multiplier method at 15 and also fixed monthly salary of Rs.15,000/- of the first deceased and awarded compensation.

7. Heard Mr.V.S.Vasanth Kumar, learned counsel appearing for the appellant. Though notice was served, no one appeared on behalf of the respondents before this Court in person or through pleader.

8. The husband, wife and daughter were traveling in a two wheeler on 06.06.2004 and the respondent bus was driven by its driver in a rash and negligent manner and hit the two wheeler, due to which all the persons who travelled in the motorcycle sustained grievous injuries and died. There are three claim petitions filed for each of the deceased by their respective legal heirs. The first deceased was doing mason job and aged only about 23 years at the time of accident. The second deceased aged about 21 years and she was a tailor. Insofar as the third deceased, she was minor and aged about only 3 years. Considering



their age and income, the Tribunal rightly awarded compensation for Rs.2,70,000/-, Rs.8,56,000/- and Rs.9,71,000/- respectively. Therefore, this Court finds no infirmity or illegality in the orders passed by the court below.

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9. Accordingly, all the civil miscellaneous appeals are dismissed. Consequently, connected Miscellaneous Petition is closed. No Costs.

(i) In respect of CMA.No.3784 of 2008, the appellant / Transport Corporation is directed to deposit the total compensation of Rs.2,70,000/- with accrued interest and costs as determined at by the Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment, after adjusting the amount, if any, already deposited. The claimants / respondents herein being minors, their shares are directed to be deposited in any one of the nationalized bank till they attain majority. The grand mother of the minor respondents herein is permitted to withdraw the accrued interest once in three months.

(ii) In respect of CMA.No.3785 of 2008, the appellant / Transport Corporation is directed to deposit the total compensation of Rs.8,56,000/- with accrued interest and costs as determined at by the Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment, after adjusting the amount, if any, already deposited. On such deposit, the claimants / respondents 1 to 4 herein are permitted to withdraw the amount awarded as apportioned by the Tribunal by filing proper application before the Tribunal. The share of the claimants / minor respondents 5 & 6 herein are directed to be deposited in any one of the nationalized bank till they attain majority. The grand mother of the minor respondents herein is permitted to withdraw the accrued interest once in three months.

(iii) In respect of CMA.No.3786 of 2008, the appellant / Transport Corporation is directed to deposit the total compensation of Rs.9,71,000/- with accrued interest and costs as determined at by the Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment, after adjusting the amount, if any, already deposited. On such deposit, the claimants / respondents 1 and 2 herein are permitted to withdraw the amount awarded as apportioned by the Tribunal by filing proper application before the Tribunal. The share of the claimants / minor respondents 3 & 4 herein is



directed to be deposited in any one of the nationalized bank till they attain majority. The grand mother of the minor respondents 5 & 6 herein is permitted to withdraw the accrued interest once in three months.

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SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To

1.The Motor Vehicles Accident Claims Tribunal
and Sub Court at Gingee.

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

+2cc to Mr.S.V.Vasanthakumar, Advocate Sr.24275, 24274

C.M.A.Nos.3784 to 3786 of 2008

jpl[col]
srg 15/12/2021