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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2021

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

CMA.No.1225 of 2011

Tamilnadu State Transport Corporation Ltd.,
Salem Division (Mettur Branch)
12, Ramakrishna Road,
Salem

...Appellant/2nd Respondent

..vs..

1.Kanagavalli
W/o.Balan

2.Hemalatha
D/o.Balan

3.Sukumar
S/o.Balan

4.Sundararajan
S/o. Kandasamy

5.V.Thirumalaisamy
S/o.Vellusamy

6.Cholamandalam MS General
Insurance Company Ltd.,
2nd Floor, 60-A, Mosuvana Street,
EVN Road, Erode-9.

...Respondents/Petitioners 1,3,4

Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the common judgment and decree dated 03.06.2010 in M.C.O.P.No.185 of 2009 on the file of the Motor Vehicles Accident Claims Tribunal, Additional District Court, Fast Track Court No.I, Erode.

For Appellant	: Mr. D.Raghu
For Respondents	: Notice unserved

JUDGMENT

The matter is heard through "Physical hearing".



This Civil Miscellaneous Appeal has been filed by the appellant-Transport Corporation against the judgment and dated 03.06.2010 in M.C.O.P.No.185 of 2009 on the file of the Motor Vehicles Accident Claims Tribunal, Additional District Court, Fast Track Court No.I, Erode.

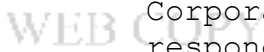
2.The appellant is the 2nd respondent before the tribunal . The respondents 1 to 3 have filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the death occurred in the road accident that took place on 24.11.2008.

3. It is the case of the respondents 1 to 3/claimants that on 24.11.2008 at about 5.30 pm the deceased Balan drove the TATA Ace vehicle bearing Reg.No. TN33-AJ-3323, at the time, the respondent corporation bus bearing Reg.No. TN30-N-0583 driven by its driver came from the opposite direction in a rash and negligent manner and dashed against the said TATA Ace Van. Due to the sudden impact, the deceased Balan and the cleaner were sustained grievous injuries and the Balan died on the spot. The legal heirs of the deceased Balan have filed a claim petition, claiming a sum of Rs.10,00,000/- as compensation. The tribunal upon analysing the oral and documentary evidence has concluded that the accident had occurred only due to the rash and negligent driving by the driver of the respondent corporation bus and directed the respondent corporation to pay a sum of Rs.7,75,000/- as compensation to the claimants.

4. Challenging the liability and quantum, the Transport Corporation has preferred the present appeal.

5. The learned counsel for the appellant/Transport Corporation has submitted that the tribunal without considering the evidence of RW1, Who deposed the negligence on the part of the deceased, has wrongly fixed the negligence on the part of the driver of the appellant/transport corporation bus. The monthly income fixed by the tribunal at Rs.4000/- is without any basis and the total compensation of Rs.7,75,000/- awarded by the tribunal under various heads is excessive and liable to be interfered with.

6. On the other hand , the learned counsel appearing for the claimants/respondents 1 to 3 submitted that after examination of evidence and documents, the tribunal has come to the conclusion that the accident had occurred due to the rash and negligence on the part of the driver of the transport corporation bus and awarded compensation of Rs. 7,75,000/- under



7. Heard the learned counsel for the appellant/Transport Corporation and the learned counsel appearing for the respondents 1to 3/claimants and perused the document available on record.

9. From a perusal of the award, the driver of the bus was not examined to substantiate the evidence of RW1. Based on the evidence of the PW2/cleaner who was also injured in the said accident and the documents marked by the claimants Ex.A2 to Ex.A6 has concluded that the accident had occurred due to negligence on the part of the driver of the transport corporation bus and directed the appellant/transport corporation to pay the compensation amount. Thus, this Court confirms the negligence and liability as against the appellant/ transport corporation

11. Considering the age and avocation of the deceased, this Court is of the view that compensation awarded by the tribunal under the conventional heads requires enhancement. Accordingly, the compensation under other heads are modified as follows;



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Heads	Compensation awarded by the tribunal Rs.	Compensation modified by this Court Rs.
Loss of dependancy	7,20,000/-	6,72,000
Loss of Consortium to the wife/1 st respondent	20,000	23,000
Loss of Love and affection to the respondents 2 & 3	30,000	40,000
Funeral Expenses	5,000/-	15,000
Loss of Estate		15,000
Pain and suffering	...	10,000
Total	7,75,000/-	7,75,000/-

12. In view of the modification under various heads, the claimants are entitled compensation amount of Rs.7,75,000/- along with interest at the rate of 7.5% per annum as awarded by the tribunal.

13. The appellant /transport corporation is directed to deposit the entire compensation amount along with interest as awarded by the tribunal, less the amount already deposited, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 to 3/claimants are permitted to withdraw the compensation along with interest and costs as per the apportionment fixed by the tribunal, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal.

14. In the result, the Civil Miscellaneous Appeal is partly allowed. The judgment and decree dated 03.06.2010 passed by the tribunal in M.C.O.P.No185 of 2009 is modified. No costs.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

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To

1. The Additional District Court, Fast Track Court No.I,
(Motor Vehicles Accident Claims Tribunal)
Erode.

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2. The Section Officer,
VR Section,
High Court, Madras.

+1 CC to Mr.D. Raghu, Advocate sr 11499.

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PP(CO)
SP(22/12/2021)