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In the High Court of Judicature at Madras

Dated: 21.01.2021

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The Honourable Mr. Justice D.KRISHNA KUMAR

C.M.A.No.263 of 2009

and

M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Salem. ...Appellant/Respondent

..Vs..

1.Kuppayee

2.Shanmugham

3.Nallammal

4.Valli

5.Manjula

6.Alammal ... Respondents/Claimants

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed by the learned Principal District Judge, (MACT), Salem in M.C.O.P. No.725 of 2004 dated 20.06.2005.

For Appellant : Mr.R.Arunmozhi

JUDGMENT

Aggrieved by the award passed by the learned Principal District Judge, (MACT), Salem in M.C.O.P. No.725 of 2004 dated 20.06.2005, the Tamil Nadu State Transport Corporation (Salem) Ltd., has filed this appeal.

2. The brief facts of the case are as follows:-

a) On 06.03.2004 at about 3.00 p.m., when the deceased Karumalai was proceeding towards his home while nearing R.C. Settippatti MOC Petrol Bunk, the bus bearing registration No. TN-



27-N-0778 driven by its driver in a rash and negligent manner hit the deceased causing multiple injuries. He was admitted in Bharat Hospital, Salem and he succumbed to the injuries there after three days. Hence, the wife, children and mother of the deceased filed the claim petition claiming a sum of Rs.10 lakhs as compensation with 9% p.a. interest from the date of petition till the date of realisation.

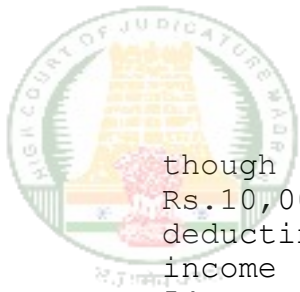
b) Before the Tribunal, witnesses P.W.1 to P.W.3 are examined and Exs.P1 to P9 were marked on the side of the claimants. Neither witness were examined nor any exhibits were marked on the side of the respondents. After considering the oral and documentary evidence, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the Transport Corporation and awarded a sum of Rs.4,89,000/- with rate of interest at 9% p.a. as total compensation to the claimants.

3. Aggrieved over the same, the Transport Corporation has preferred the present appeal.

4. Though sufficient opportunity was granted to the appellant to serve notice on the respondents, they failed to comply with the same. Hence with the consent of the learned counsel for the appellant, the appeal is taken up today for final disposal.

5. The learned counsel for the appellant submitted that there is no negligent on the part of the driver of the Transport Corporation and also the amount awarded by the Tribunal is also on the higher side. He further contended that on these grounds, the compensation amount awarded by the Tribunal is liable to be set aside.

6. On perusal of Ex.A1/first inquest report reveals that the accident had occurred only due to the rash and negligent driving of the driver of the Transport Corporation. No contrary material has been placed by the Transport Corporation to disprove the said findings. Therefore, this Court holds that the Tribunal has rightly come to the conclusion that the accident had happened only due to the negligent act of the driver of the Transport Corporation. Insofar as the contention raised by the appellant in respect of quantum of award passed by the Tribunal is excessive is concerned, it reveals from the records that the deceased was engaged in self employment at the time of accident such as agriculture, running mechanic shop, holding 10 pattuthari and karumbalai crusher to maintain his livelihood as well as his family. The Tribunal after considering his employment as well as his family background had fixed the monthly income of the deceased at Rs.5,000/- per month



though the claimants have stated that he was earning more than Rs.10,000/- per month which seems to be reasonable. After deducting 1/3rd towards his personal expenses arrived his annual income at Rs.40,000/-. Considering the age of the deceased as 54 years at the time of accident, adopted 11 years multiplier as per the II Schedule of the Amended MV Act, 1988 and following the dictum laid by the Hon'ble Apex Court in Sarala Verma's case [2009 ACJ 1298 (SC)], arrived at the loss of income at Rs.4,40,000/-. Under the other heads, the Tribunal had awarded a sum of Rs.42,000/- towards medical expenses as per Ex.A4, Rs.2000/- towards funeral expenses and Rs.5000/- towards loss of consortium, which seems to be fair and reasonable. Moreover, the Tribunal had not awarded any amount towards loss of love and affection for his children and mother. Therefore, this Court is of the view that the amount awarded by the Tribunal warrants no interference and the appeal is liable to be dismissed.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Miscellaneous Petition is closed. There shall be no orders as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

DP

To

1. The Principal District Judge,
(The Motor Accident Claims Tribunal)
Salem.

2. The Record Keeper,
V.R. Section, High Court, Madras.

C.M.A.No.263 of 2009
and
M.P.No.1 of 2009

NMI (CO)
K.RK. (14.09.2021)