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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.555 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore Division) Ltd.,
37, Mettupalayam Road,
Coimbatore-43.

... Appellant/5th Respondent

Vs..

1.Bakkiam
2.Elumalai
3.Jothi
4.Murugesan
5.S.Ramesh Kumar
6.National Insurance Company Ltd.,
Branch II 1272 to 1273
Mettu Road, Palaniappa Complex,
Erode-11
7.J.Andrew Raymond

... Respondents/Petitioners 1 to 3/
Respondent 1 to 4

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed by the learned I Additional District Judge, (MACT), Erode in O.P. No.772 of 2005 dated 09.06.2007.

For Appellant : Mr.Arun
for Mr.A.Sundaravathanan

JUDGMENT

Aggrieved by the award passed by the learned I Additional District Judge, (MACT), Erode, the Tamil Nadu State Transport Corporation (Coimbatore Division) Ltd., has filed this appeal in O.P. No.772 of 2005 dated 09.06.2007.

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

a) On 27.07.2005 at about 3.30 pm., when the deceased was riding his bicycle in Perundurai road, opposite to Nokia cell shop, the car bearing registration No.TN-33-AZ-3011 hit the



deceased by opening the door suddenly, due to which he fell down, at that moment, the bus bearing registration No.TN-43-N-0291 ran over him. Due to the negligent act of both the drivers of the car and the Transport Corporation bus, the deceased succumbed to the injuries. Hence, the legal heirs of the deceased filed the claim petition, claiming a sum of Rs.4 lakhs as compensation.

b) Before the Tribunal, witnesses P.W.1 & P.W.2 are examined and exhibits P1 to P8 were marked on the side of the claimants. The Tribunal, after analysing the oral and documentary evidences, came to the conclusion that the fatal accident had taken place due to the negligent act of the drivers of the car and the transport corporation bus and awarded a sum of Rs.4 lakhs with 7.5% p.a. interest from the date of petition till the date of realization. The said sum of compensation was directed to be paid equally by the third and fifth respondent therein namely, the Insurance Company and the Transport Corporation.

3. Aggrieved over the same, the Tamil Nadu State Transport Corporation has filed this appeal.

4. Though notice was ordered to the respondents on 03.09.2019, no steps have been taken to serve them, this Court by considering the merits of the case and with the consent of the learned counsel for the appellant, the appeal itself is taken up today for final disposal.

5. The learned counsel for the appellant submitted that the Tribunal without taking into account the age of the deceased as 27 years at the time of the accident had erred in adopting the multiplier 18, which according to him is unsustainable. He also contended that without any oral and documentary evidence to establish that the deceased had earned a sum of Rs.3000/- per month, had fixed his monthly income at Rs.3000/-, which is not acceptable. Therefore on these grounds, the learned counsel for the appellant submitted that the award passed by the Tribunal is liable to be set aside.

6. The claimants are the legal heirs of the deceased and filed the claim petition, claiming a sum of Rs.4 lakhs as compensation for the accident that had happened on 27.07.2005. According to the claimants before the Tribunal, the deceased had earned more than Rs.10,000/- per month. The Tribunal after considering the oral and documentary evidence had fixed the monthly income of the deceased at Rs.3,000/- per month, which comes to Rs.36,000/- per annum. A sum of Rs.12,000/- i.e., 1/3rd was deducted towards his personal expenses, arriving at Rs.24,000/- p.a. to meet out the family expenses of the deceased.



7. Insofar as the other contention raised the learned counsel for the appellant is that the multiplier 18 adopted by the Tribunal is contrary to the II Schedule of the MV Act as per the dictum laid down by the Hon'ble Supreme Court in Sarla Verma's case [2009 ACJ 1298 (SC)]. This Court finds some force on the contention of the appellant in respect of adoption of multiplier as excessive as per the aforesaid dictum, the correct multiplier is 17 as the age of the deceased was 27 years at the time of death. Even otherwise, the Tribunal has arrived at the conclusion that the respondent claimant is entitled to a sum of Rs.4,32,000/- under the pecuniary loss and also awarded further amount on various heads to the tune of Rs.30,000/-, totalling to Rs.4,62,000/- as compensation to the claimant. But the respondent has restricted their claim only to Rs.4 lakhs. Therefore even though the contention of the appellant is accepted and the multiplier 17 is adopted instead of 18, the said award passed by the Tribunal does not require modification in view of the above facts and circumstances. Consequently, the Civil Miscellaneous Appeal is liable to be dismissed.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed. There shall be no orders as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

DP

To

1. The I Additional Judge,
(The Motor Accident Claims Tribunal)
Erode.

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

+1cc to Mr.A.Sundaravathanan, Advocate, S.R.No.3986

C.M.A.No.555 of 2009

PA(CO)
HS(02/09/2021)