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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA.No.1018 of 2016
and CMP.No.7715 of 2016
and Cross Objection No.44 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Kancheepuram Region,
Kancheepuram. ... Appellant in CMA /
Respondent in Cross Objection

Vs.

1.V.Krishnaveni
2.J.Veeraragavan ... Respondents in CMA /
Petitioners in Cross Objection

PRAYER: This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP.No.1301 of 2012, on the file of the Motor Accident Claims Tribunal, the Special Sub-Court No.I, (to deal with MCOP Cases) Chennai, dated 27.07.2015.

For Appellant in CMA and
Respondent in
Cross Objection : Mr.J.Lokesh
for Mr.K.J.Sivakumar

For R1 in CMA and
1st Petitioner in
Cross Objection : Mr.Terry Chellaraja

For R2 in CMA/2nd Petitioner
in Cross Objection : Died

JUDGMENT

(The case has been heard through video conference)

The Tamil Nadu State Transport Corporation is the Appellant herein.

2.This Civil Miscellaneous Appeal has been filed by the Tamil Nadu State Transport Corporation and the Cross Objection No.44 of 2016, has been filed by the claim petitioners.



3(a).The respondents herein have filed a petition in MCOP.No.1301 of 2012, on the file of the Motor Accident Claims Tribunal, the Special Sub-Court No.I, (to deal with MCOP Cases) Chennai, for claiming compensation for the death of their son, aged about 17 years, in the road transport accident, which took place on 10.01.2012.

3(b).The Tribunal, on consideration of both the oral and documentary evidence, has come to the conclusion that the bus belong to the appellant herein viz.,Transport Corporation was driven by its driver in a rash and negligent manner and hence, the accident has taken place. Accordingly, the Tribunal has fixed the liability upon the Transport Corporation bus and awarded a sum of Rs.8,73,000/-, as compensation. As aggrieved against the finding by the Tribunal on the point of the negligence and the quantum, the Transport Corporation has preferred this Civil Miscellaneous Appeal while, the claim petitioners have preferred Cross Objection No.44 of 2016

4.During the pendency of the Civil Miscellaneous Appeal, the second respondent viz., J.Veeraragavan died and his wife, who is already a parte in this appeal viz., the first respondent herein, was recognized as a legal representative of the deceased/second respondent viz., J.Veeraragavan.

5.Before the Tribunal, during the course of trial, on the side of the petitioners PW1 & PW2 were examined and Exs.P1 to P7 were marked and on the side of the respondents RW1 was examined and no documentary witness has been marked.

6.Heard the learned counsel for the respective parties and perused the materials placed on record.

7.The learned counsel for the appellant herein/Transport Corporation would draw my attention to RW1/driver of the bus viz., E.Ramajeyam, with regard to the manner of the accident.

8.On a perusal of the records, it is seen that the evidence of RW1 has been considered by the Tribunal and also a specific finding has been rendered at paragraph No.8 of its Judgment viz., RW1/driver of the Transport Corporation bus, has projected that the deceased has also contributed to the accident.

9.As per Ex.P1/FIR, which has been filed for the alleged offences punishable under Sections 279, 304(a) IPC against the driver of the Transport Corporation bus and on consideration of the evidence of the PW2/J.Rajendran, it is seen that the driver



of the bus has started the bus in rash and negligent manner with high speed and due to the junk, the students were thrown away from the bus. In case of the petitioner, he fell down and the bus ran over him.

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10. Considering the manner of the accident as spoken to by PW2/occurrence witness, the Trial Court has rightly come to the conclusion that the evidence of RW1 is only self evidence and that the accident has taken place due to the rash and negligent driving of the driver of the bus. Further, in the cross-examination of RW1, he had admitted that after the accident, the Management has conducted a legal enquiry and placed him under suspension for three months each by the R.T.O as well as by the Transport Corporation with regard to the manner of the accident. Hence, such a finding rendered by the Tribunal does not found to be suffered from any illegality in appreciating the evidence of PW1 & PW2 with reference to the documentary evidence. Accordingly, the finding rendered by the Tribunal that the driver of the bus has driven the bus in rash and negligent manner is hereby confirmed.

11. On the point of quantum, the Tribunal has relied upon the decision reported in 2010 (1) TNMAC 195 - (M. Gunasundari Vs. Brills Transports and another), and accordingly fixed the Notional Income of the boy at R.6,000/- per month.

12. Following the judgment of the Hon'ble Supreme Court reported in 2009 (2) TN MAC 1 (SC) - (Sarla Verma v. Delhi Transport Corporation), the Tribunal has adopted Multiplier 18. Based upon the dispute regarding, Ex.P6/xerox copy of the Transfer Certificate of the deceased, the age of the boy has fixed at 17 years.

13. As per the judgment of the Constitution Bench of the Hon'ble Supreme Court of India in the case of National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TN MAC 609 (SC), the claim petitioners are entitled to 40% of the future prospects. Accordingly, the financial loss sustained by the parents of the deceased is reassessed as under:

$\text{Rs. } 6,000 + 40\% \text{ of } 6,000/- = \text{Rs. } 8,400/-$.

$\text{Rs. } 8,400/- \times 12 \times 18 \times (\frac{1}{2}) = \text{Rs. } 9,07,200/-$.

and compensation under various heads are re-assessed as under:

Sl. No.	Head	Amount awarded by the Tribunal (in Rs.)	Amount granted by this Court (in Rs.)
1.	Financial loss	6,48,000/-	9,07,200/-



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Sl. No.	Head	Amount awarded by the Tribunal (in Rs.)	Amount granted by this Court (in Rs.)
2.	Loss of love and affection to the claim petitioners	2,00,000/- (Rs.1,00,000/- each)	1,00,000/- (Rs.50,000/- each)
3.	Funeral and Ritual Expenses	25,000/-	15,000/-
4.	Transportation Expenses	--	15,000/-
5.	Loss of estate	--	25,000/-
	Total	8,73,000/-	10,62,200/-

Hence, the compensation awarded by the Tribunal is enhanced from Rs.8,73,000/- to Rs.10,62,200/- (Rupees Ten Lakhs Sixty Two Thousand and Two Hundred).

14. In the result,

(a) this Civil Miscellaneous Appeal filed by the Transport Corporation is dismissed and the Cross Objection No.44 of 2016 filed by the claim petitioners is allowed by enhancing the compensation amount awarded by the Tribunal from Rs.8,73,000/- to Rs.10,62,200/- (Rupees Ten Lakhs Sixty Two Thousand and Two Hundred).

(b) The appellant herein/Transport Corporation is directed to pay the compensation amount as enhanced by this Court to the credit of MCOP.No.1301 of 2012, on the file of the Motor Accident Claims Tribunal, the Special Sub-Court No.I, (to deal with MCOP Cases) Chennai, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.

(c) The enhanced award amount will carry interest at the rate of 7.5% per annum from the date of petition till the date of payment.

(d) On such deposit, the first claim petitioner/first respondent herein viz., the mother of the deceased is permitted to withdraw the enhanced award amount, less the amount already withdrawn, if any.

(e) The first claim petitioner/first respondent herein shall pay necessary Court fee, if any, on the enhanced compensation.



(f) No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Motor Accident Claims Tribunal,
the Special Sub-Court No.I, (to deal with MCOP Cases),
Chennai.
- 2.The Section Officer,
VR Section High Court,
Madras.

+1cc to Mr.K.J.Sivakumar, Advocate Sr.18684

CMA.No.1018 of 2016
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and Cross Objection No.44 of 2016

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srg 28/10/2021