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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNA KUMAR

C.M.A.NO.2136 OF 2012

AND

M.P.NO.1 OF 2012

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram Division-1) Ltd.,
No.3/137, Salamedu,
Vazhudhareddy,
Villupuram.

... Appellant/1st Respondent

..Vs..

1.Alamelu

2.Pradeep Kumar (Minor)

3.Priyadharshini (Minor)

... Respondents 1 to 3/Petitioners 1 to 3

4.Govindammal

5.Sarangapani

... 4th and 5th Respondents/
2nd & 3rd Respondents

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), Puducherry in M.C.O.P. No.562 of 2008 dated 03.01.2011.

For Appellant	: Mr.C.S.K.Sathish
For Respondents	: No Appearance

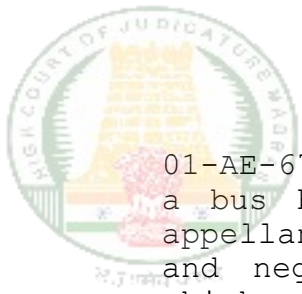
JUDGMENT

Aggrieved by the award passed by the learned Principal District Judge, (MACT), Puducherry, the Tamil Nadu State Transport Corporation (Villupuram Division-1) Ltd., has filed this appeal in M.C.O.P. No.562 of 2008 dated 03.01.2011.

2. Heard Mr.C.S.K.Sathish, learned counsel appearing on behalf of the Transport Corporation.

3. The brief facts of the case is as follows:-

a) On 13.09.2007 at about 11.00 p.m., while the deceased Arumugam was riding his TVS Moped bearing registration No.PY-



01-AE-6756 along the left side of the N.H. Road at Vikravandi, a bus bearing registration No.TN-32-N-2509 belonging to the appellant Transport Corporation driven by its driver in a rash and negligent manner dashed behind the TVS Moped, due to which, he sustained grievous injuries all over the body. He was admitted in Government Hospital, Villupuram and thereafter shifted to Government Hospital, Chennai, where the said Arumugam succumbed to the injuries on 15.09.2007. Hence, the legal heirs of the deceased Arumugam, viz., wife, two minor children and parents had filed a claim petition claiming a sum of Rs.20 lakhs as compensation.

b) Before the Tribunal, witnesses P.W.1 to P.W.3 were examined and exhibits A1 to A8 were marked on the side of the claimant whereas RW1 was examined on the side of the respondent Transport Corporation and no documents were marked on their behalf. After considering the oral and documentary evidences, the Tribunal came to the conclusion that the accident had only occurred due to the rash and negligent driving of the driver of the Transport Corporation bus and directed the appellant Transport Corporation to pay a sum of Rs.7,86,000/- as compensation to the claimants with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

c) The break-up details of the award passed by the Tribunal is as follows:-

S.No.	Heads	Amount (Rs.)
1	Loss of income	6,73,200
2	Loss of consortium	40,000
3	Loss of love & affection	60,000
4	Funeral expenses	7,500
5	Transportation	5,000
	Total	7,85,700/- rounded off to 7,86,000/-

4. Challenging the same, the appellant/Transport corporation has come forward with the present appeal as against the award passed by the Tribunal awarding compensation to the tune of Rs.7,86,000/- with interest at the rate of 7.5% p.a.

5. The learned counsel for the appellant challenged the award mainly on the ground that the entire liability has to be fixed on the deceased as their driver has drove the bus in a cautious manner. He further submitted that the Tribunal had erred in adopting 17 multiplier in the case on hand which seems to be excessive. According to the learned counsel for the appellant, the amounts awarded under the various heads is also excessive and therefore, pleaded to set aside the award



passed by the Tribunal and allow the appeal.

6. I have given careful consideration to the submissions made by the learned counsel for the appellant and also perused the materials available on record.

7. The first claimant is the wife of the deceased, who was aged about 28 years at the time of death of her husband Arumugam, aged 30 years at the time of accident and was running a Hotel business near Venkateswara College. The Tribunal on considering both the oral and documentary evidences, has rightly fixed the monthly income of the deceased at Rs.4,500/- after deducting 1/4th towards the personal expenses fixed the income at Rs.3,300/- per month of the deceased family as the dependants are five in number and based on the age of the deceased at the time of accident i.e., 30 years, 17 years multiplier has been adopted to arrive at the loss of income to Rs.6,73,600/-. This Court affirms that multiplier 17 adopted by the Tribunal by taking the age of the deceased as 30 is correct as per the II Schedule of the Amended MV Act, 1988 and also by following the dictum laid down by the Hon'ble Apex Court in the case of Sarala Verma, 2009 ACJ 1298 (SC) and therefore, is of the view that no interference is required under the said head. Insofar as the other heads are concerned, this Court opines that the amount awarded under the various heads by the Tribunal are fair and reasonable considering the age of the wife and minor children and warrants no interference. In view of the same, the appeal filed by the Transport Corporation is liable to be dismissed.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed. It is brought to the notice of this Court that the entire amount has been deposited by the appellant/Transport corporation. The claimants are permitted to withdraw their proportionate share along with interest, less the amount already withdrawn if any, as per the apportionment made by the Tribunal on filing appropriate petition. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-VI)

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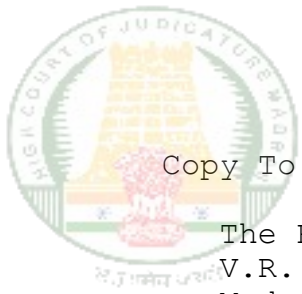
Sub Assistant Registrar

DP

To

The Principal District Judge,
(The Motor Accident Claims Tribunal)

Puducherry,



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

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C.M.A.No.2136 of 2012
and
M.P.No.1 of 2012

VG I (CO)
GN (27/09/2021)