



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.224 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation,
Bharathipuram, Salem Main Road,
Dharmapuri.

..Appellant/Respondent

Vs.

1.Peruma
2.K.Vadivel

..Respondents/Petitioners

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 27.09.2013 made in M.C.O.P.No.67 of 2013 on the file of the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The matter is heard through "Video Conferencing".

2.This Civil Miscellaneous Appeal has been filed to set aside the award dated 27.09.2013 made in M.C.O.P.No.67 of 2013 on the file of the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri.

3.The appellant is the respondent in M.C.O.P.No.67 of 2013 on the file of the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri. The respondents filed the above said claim petition claiming a sum of Rs.10,00,000/- as compensation for the death of their son V.Jayakumar, who died in the accident that took place on 20.12.2009.

4.According to respondents, on 20.12.2009 at about 09.15 P.M., while the deceased V.Jayakumar was riding his motorcycle bearing Registration No.TN 29 Y 3645 on the Krishnagiri - Kandili Road near Seenivasan Tea Shop, the driver of the bus bearing Registration No.TN 29 N 1569 belonging to appellant-Transport Corporation, drove the bus in a rash and negligent manner from Krishnagiri to Kandili without observing any road traffic rules in a high speed, lost his control and dashed



against the motorcycle rode by the deceased and caused the accident. In the accident, the said V.Jayakumar sustained multiple grievous injuries all over his body. Immediately after the accident, the said V.Jayakumar was taken to Government Hospital, Tirupathur. In spite of treatment, the said V.Jayakumar succumbed to injuries on the same day. Therefore, the respondents filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation against the appellant-Transport Corporation.

5.The appellant-Transport Corporation filed counter statement and denied all the averments made by the respondents. The respondents have to prove that the driver of the bus belonging to appellant was responsible for the accident by producing valid documents. According to the appellant, at the time of accident, while the driver of the bus was driving the bus from Hosur to Tirupattur very slowly and cautiously by observing the road rules and regulations, near Kandili Police Station, the deceased rode his motorcycle in a rash and negligent manner without sounding horn, approaching from the branch road to main road. On seeing this, the driver of the bus reduced the speed of the bus as the road was a curved one and the bus almost came to halt. But the deceased only rode his motorcycle in a rash and negligent manner without minding the nature of the road, not observing the road rules and without reducing the speed, dashed against the bus and invited the accident. Therefore, the accident has occurred only due to the negligence on the part of the deceased and not due to the negligence on the part of the driver of the bus belonging to appellant. The respondents have to implead the owner and insurer of the motorcycle rode by the deceased as necessary parties in the claim petition. The deceased was not possessing driving license at the time of accident. The deceased has taken treatment in the Private Hospital only with an intention to get more compensation from the appellant. The appellant-Transport Corporation denied the age, avocation and income of the deceased. In any event, the quantum of compensation claimed by the respondents is highly excessive and prayed for dismissal of the claim petition.

6.Before the Tribunal, the 2nd respondent examined himself as P.W.1 and 4 documents were marked as Exs.P1 to P4. On behalf of the appellant, Chinnasamy, Driver of the bus belonging to appellant was examined as R.W.1 and Paneer Selvam, Conductor of the bus belonging to appellant was examined as R.W.2 and a copy of the judgment in C.C.No.90 of 2010 was marked as Ex.R1.

7.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging



to appellant-Transport Corporation and directed the appellant to pay a sum of Rs.11,71,000/- as compensation to the respondents.

8.Challenging the quantum of compensation awarded by the Tribunal in the award dated 27.09.2013 made in M.C.O.P.No.67 of 2013, the appellant-Transport Corporation has come out with the present appeal.

9.The learned counsel appearing for the appellant contended that the respondents failed to prove the age, avocation and income of the deceased by producing valid documents. In the absence of any material evidence to prove the avocation and income, a sum of Rs.10,000/- per month fixed by the Tribunal as notional income of the deceased is excessive. The amount awarded by the Tribunal towards loss of love and affection is excessive. In any event, the total compensation awarded by the Tribunal at Rs.11,71,000/- is highly excessive and prayed for setting aside the award passed by the Tribunal.

10.Heard the learned counsel appearing for the appellant-Transport Corporation and perused the entire materials on record.

11.From the materials available on record, it is seen that it is the claim of the respondents that the deceased was aged 22 years, doing Diploma in Pandiyan Polytechnic College and also working under M.S.Constructions, Tirupattur and was earning a sum of Rs.4,500/- per month. But they failed to prove the said contention. The Tribunal considering the fact that the accident occurred in the year 2012, deceased was aged 22 years at the time of accident, a Diploma student and also working under M.S.Constructions, Tirupattur, held that had the deceased been alive, he would have completed his studies and got a decent job with good salary. Therefore, the Tribunal fixed the notional income of the deceased at Rs.10,000/- per month. The accident occurred in the year 2012 and the monthly income fixed by the Tribunal is not excessive. The deceased was a bachelor, aged 22 years at the time of accident and the multiplier '18' applied and 50% deduction made by the Tribunal towards personal expenses of the deceased are proper. The Tribunal considering the entire materials on record, has awarded a sum of Rs.11,71,000/- as compensation to the respondents, which is not excessive warranting interference by this Court.

12.In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.11,71,000/- awarded by the Tribunal as compensation to the respondents, along with interest and costs is confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount if any already deposited, within a period of twelve weeks from the date of receipt of a copy of this judgment to the



credit of M.C.O.P.No.67 of 2013 on the file of the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri. On such deposit, the respondents are permitted to withdraw their respective share of the award amount as per the ratio of apportionment fixed by the Tribunal along with proportionate interest and costs after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

krk
To

1.The Motor Accidents Claims Tribunal,
Special District Judge,
Krishnagiri.

+1 CC to Mr.D.Venkatachalam, Advocate sr 6204.

C.M.A.No.224 of 2021

KV(CO)
SP(07/09/2021)