



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.225 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation,
(Salem Division - II) Limited,
Bharathipuram, Dharmapuri ...Appellant / Respondent
Vs.

1.Kanniyammal
2.Sakthivel
3.G.Raja ...Respondents / Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 27.11.2013 made in M.C.O.P.No.239 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 27.11.2013 made in M.C.O.P.No.239 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.239 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 one V.Govindaraj @ Govindarajulu, who died in the accident that took place on 26.02.2010.

4.According to respondents, on 26.02.2010 at about 07.00 A.M., while the deceased V.Govindaraj @ Govindarajulu was travelling as a passenger in the bus belonging to appellant-Transport Corporation bearing Registration No.TN 29 N 1817 from Hosur to Naripuram, at the Nariupram bus stop, while the deceased was getting down from the bus through the front exit at the Nariupram bus stop, the driver of the bus without noticing



the said V.Govindaraj @ Govindarajulu, who was getting down from the bus, suddenly moved the bus in a rash and negligent manner. Due to the said impact, the said V.Govindaraj @ Govindarajulu fell down from the bus and sustained head injury. Immediately after the accident, the said V.Govindaraj @ Govindarajulu was taken to Government Hospital for treatment. The duty Doctor examined the said V.Govindaraj @ Govindarajulu and declared that he was brought died. Therefore, the respondents filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation against the appellant-Transport Corporation.

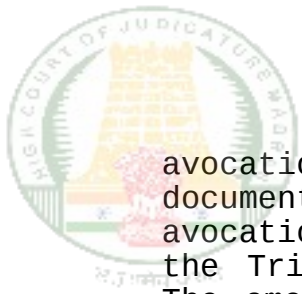
5.The appellant-Transport Corporation filed counter statement and denied all the averments made by the respondents. The appellant denied the manner of accident as alleged by the respondents. According to the appellant, at the time of accident, while the bus was proceeding after alighting and boarding of the passengers at semi curved Naripuram bus stop and when the bus was about to stop at the bus stop, some of the passengers shouted that one of the passengers rushed to the foot board of the bus and jumped out of the slow moving bus and fell down. Thereafter, the Driver and Conductor of the bus took the injured to the Government Hospital, Hosur, where the Doctor examined the said V.Govindaraj @ Govindarajulu and announced that the said V.Govindaraj @ Govindarajulu was brought dead. 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. 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 3rd respondent-eyewitness to the accident examined himself as P.W.1 and 3 documents were marked as Exs.P1 to P3. On behalf of the appellant, Inbakkadal, Driver of the bus belonging to appellant was examined as R.W.1 and no documentary evidence was let in.

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.11,05,200/- as compensation to the respondents.

8.Challenging the quantum of compensation awarded by the Tribunal in the award dated 27.11.2013 made in M.C.O.P.No.239 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 under conventional heads is excessive. In any event, the total compensation awarded by the Tribunal at Rs.11,05,200/- 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 at the time of accident, the deceased was aged 44 years, a Stone Cutting and Blue Metal Cutting Coolie and was earning a sum of Rs.10,000/- per month. But they failed to prove the said contention. In the absence of any material evidence to prove the avocation and income of the deceased, the Tribunal considering the year of accident, age and nature of work done by the deceased, fixed a sum of Rs.10,000/- per month as notional income of the deceased, as claimed by the respondents. The accident occurred in the year 2010 and the monthly income fixed by the Tribunal is not excessive. The Tribunal considering the entire materials on record, has awarded a sum of Rs.11,05,200/- 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.11,05,200/- 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.239 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.

Sd/-
Assistant Registrar (CCC)

// True Copy //

Sub Assistant Registrar

krk



To

The District Judge,
Special District Court for MACT,
Motor Accidents Claims Tribunal,
Krishnagiri.

Copy to

The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.D.Venkatachalam, Advocate SR.No.6205

C.M.A.No.225 of 2021

VG-II(CO)
RVM(20/09/2021)