



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.622 of 2021

and

C.M.P.No.3790 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Division III, No.12,
Sheikept Nadu Street,
Kanchipuram.

.. Appellant/1st Respondent

Vs.

1.M.Lakshmi @ Muthulakshmi

2.P.Dhanalakshmi

3.P.Kanaga

4.Minor. P.Chellamma

(Minor 4th respondent represented by her mother,

M.Lakshmi @ Muthulakshmi,

1st respondent herein) ... Respondents 1 to 4/Petitioners 1 to 4

5.G.Srinivasan

... 5th Respondent/2nd Respondent

6.The Divisional Manager,

United India Insurance Company Limited,

Motor Third Party Claim Office,

No.66, 68, Gandhi Road,

Kanchipuram.

..6th Respondent/3rd Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 19.10.2019 made in M.C.O.P.No.451 of 2015 on the file of the Motor Accidents Claims Tribunal, Additional District Court (FTC), Kanchipuram.

For Appellant : Mr.K.J.Sivakumar



J U D G M E N T

This Civil Miscellaneous Appeal has been filed to set aside the award dated 19.10.2019 made in M.C.O.P.No.451 of 2015 on the file of the Motor Accidents Claims Tribunal, Additional District Court (FTC), Kanchipuram.

2.The appellant is the 1st respondent in M.C.O.P.No.451 of 2015 on the file of the Motor Accidents Claims Tribunal, Additional District Court (FTC), Kanchipuram. The respondents 1 to 4 filed the above said claim petition claiming a sum of Rs.15,00,000/- as compensation for the death of one A.Palani, who died in the accident that took place on 22.06.2009.

3.According to respondents 1 to 4, on 22.06.2009 at about 11.30 A.M., while the deceased A.Palani was travelling as pillion rider in the motorcycle bearing Registration No.TN 10 V 0839 driven by the 5th respondent on the extreme left side mud portion of the Kanchipuram - Chengalpet high road from Walajabad to Sithalapakkam near Puliyambakkam village Bus Stop, the driver of the bus bearing Registration No.TN 21 N 0858 belonging to appellant-Transport Corporation, drove the bus in a rash and negligent manner from the opposite direction at an uncontrollable speed, lost his control and turned the bus to the wrong side of the road and dashed against the motorcycle driven by the 5th respondent and caused the accident. In the accident, the said A.Palani, who was travelling as pillion rider in the motorcycle driven by the 5th respondent, sustained fatal injuries and died on the spot. Therefore, the respondents 1 to 4 filed the said claim petition claiming a sum of Rs.15,00,000/- as compensation against the respondents 5, 6 and appellant-Transport Corporation.

4.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.12,04,000/- as compensation to the respondents 1 to 4 and dismissed the claim petition as against the respondents 5 & 6.

5.Challenging the quantum of compensation awarded by the Tribunal in the award dated 19.10.2019 made in M.C.O.P.No.451 of 2015, the appellant-Transport Corporation has come out with the present appeal.

6.Though the appellant has raised a ground with regard to



negligence, at the time of argument, the learned counsel appearing for the appellant restricted his arguments only with regard to quantum of compensation and contended that the monthly income of the deceased fixed by the Tribunal at Rs.6,000/- in the absence of any material evidence to prove the avocation and income is excessive and prayed for setting aside the award passed by the Tribunal.

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

8. From the materials available on record, it is seen that it is the claim of the respondents 1 to 4 that the deceased was aged 44 years, working as Manager in a Crusher Company and was earning a sum of Rs.14,000/- per month at the time of accident. But they failed to prove the said contention. In the absence of any material evidence with regard to avocation and income, the Tribunal considering the year of accident, age and nature of work done by the deceased, fixed a sum of Rs.6,000/- per month as notional income of the deceased. The accident occurred in the year 2009 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.12,04,000/- as compensation to the respondents 1 to 4, which is not excessive warranting interference by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.12,04,000/- awarded by the Tribunal as compensation to the respondents 1 to 4, 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.451 of 2015 on the file of the Motor Accidents Claims Tribunal, Additional District Court (FTC), Kanchipuram. On such deposit, the respondents 1 to 3 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. The share of the minor 4th respondent is directed to be deposited in any one of the Nationalized Banks, till the minor 4th respondent attains majority. On such deposit, the 1st respondent, being the Mother of the minor 4th respondent is permitted to withdraw the accrued interest once in three months for the welfare of the minor 4th respondent. This appeal is dismissed as against the respondents



5 & 6. Consequently, the connected Miscellaneous Petition is closed. No costs.

WEB COPY

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

krk

To

1.The Additional District Judge (FTC),
Motor Accidents Claims Tribunal,
Kanchipuram.

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

+1cc to Mr.K.J.Sivakumar, Advocate SR.No.14955

+1cc to Mr.C.Prabakaran, Advocate SR.No.14810

C.M.A.No.622 of 2021

RR(CO)
GN(23/11/2021)