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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.NO.628 OF 2021

AND

C.M.P.NO.3812 OF 2021

1. The Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram Division), Thiruvannamalai.
2. The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram Division - III)

[2nd respondent is impleaded as per the order in I.A.343/2016 dated 11.01.2017 and amended as per the order in I.A.No.166/2017, dated 04.07.2017]

.. Appellants/1st and 2nd Respondents

Vs.

1. Uma
2. Minor.Bharathi
3. Minor Suriya
[Minor petitioners 2 and 3 are represented by their mother the 1st respondent herein]

.. 1 to 3 Respondents/
1 to 3 Petitioners

Lakshmi (Died)

(As per memo dated 13.03.2019 and amended as per the order in I.A.No.323/2019 dated 05.07.2019)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 25.09.2020 made in M.C.O.P.No.52 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Madurantakam.



For Appellants : Mr.K.J.Sivakumar

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JUDGMENT

This Civil Miscellaneous Appeal has been filed challenging the quantum of compensation granted by the Tribunal in the award dated 25.09.2020 made in M.C.O.P.No.52 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Madurantakam.

2.The appellants are the respondents in M.C.O.P.No.52 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Madurantakam. The respondents filed the above said claim petition claiming a sum of Rs.10,00,000/- as compensation for the death of one Palani, who died in the accident that took place on 10.10.2011.

3.According to respondents, on 10.10.2011 at about 7.00 a.m, while the deceased Palani was boarding on the bus bearing Registration No.TN-21-N-0928 at Salavakkam cross road, the driver of the bus started the bus without getting any caution from the conductor, in a rash and negligent manner with high speed without ascertaining, whether all the passengers entered into the bus or not. As a result, the said Palani was thrown out from the bus and the rear wheel of the bus ran over him and he died on the spot. Therefore, the respondents filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation against the appellants-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 2nd appellant-Transport Corporation and directed the appellants to pay a sum of Rs.19,66,000/- as compensation to the respondents.

5.Challenging the quantum of compensation awarded by the Tribunal in the award dated 25.09.2020 made in M.C.O.P.No.52 of 2012, the appellants-Transport Corporation have come out with the present appeal.

6.Though the appellants have raised a ground with regard to negligence, at the time of arguments, the learned counsel appearing for the appellant-Transport Corporation restricted his arguments only with regard to quantum of compensation and contended that the respondents failed to prove the age, avocation and income of the deceased by producing valid



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documents. In the absence of any material evidence to prove the avocation and income, a sum of Rs.9,000/- per month fixed by the Tribunal as notional income of the deceased is excessive. A sum of Rs.2,00,000/- awarded towards parental consortium is also excessive. In any event, the total compensation awarded by the Tribunal at Rs.19,66,000/- is highly excessive and prayed for setting aside the award passed by the Tribunal.

7. Heard the learned counsel appearing for the appellants-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 that the deceased was aged 39 years, a Driver and was earning a sum of Rs.10,000/- per month at the time of accident. They have not filed any document to prove the avocation and income of the deceased. In the absence of any material evidence with regard to avocation and income, the Tribunal considering the nature of work done by the deceased, fixed a sum of Rs.9,000/- per month as notional income of the deceased. The accident occurred in the year 2011 and the monthly income fixed by the Tribunal is meagre. The Tribunal has not awarded any amount towards loss of love and affection and loss of estate. The 1st respondent has lost her husband, the minor respondents 2 and 3, who are the children of the deceased have lost their father at a young age and one Lakshmi (died), who is the mother of the deceased has lost her son in the accident. Therefore the sum of Rs.2,00,000/- awarded by the Tribunal towards parental consortium is not interfered with. The deceased aged 39 years at the time of accident. Following the judgments of the Hon'ble Apex Court reported in 2009 (2) TNMAC 1 SC Supreme Court, [Sarla Verma & others Vs. Delhi Transport Corporation & another] and 2017 (2) TNMAC 609 (SC), [National Insurance Company Limited Vs. Pranay Sethi and others, the multiplier '15' applied and 40% enhancement granted by the Tribunal are proper. There are four dependents of the deceased and the Tribunal has rightly deducted 1/4th towards personal expenses of the deceased. The Tribunal considering the entire materials on record, has awarded a sum of Rs.19,66,000/- as compensation to the respondents, which is not excessive warranting interference by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.19,66,000/- awarded by the Tribunal as compensation to the respondents, along with interest and costs is confirmed. The appellants-Transport Corporation are 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.52 of 2012 on the file of the Motor Accidents Claims Tribunal, Sub Court, Madurantakam. On such deposit, the 1st respondent is permitted to withdraw her



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 respondents 2 and 3 are directed to be deposited in any one of the Nationalized Banks, till the minor respondents 2 and 3 attain majority. On such deposit, the 1st respondent, being the Mother of the minor respondents 2 and 3 is permitted to withdraw the accrued interest once in three months for the welfare of the minor respondents 2 and 3. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

dsa

To

The Motor Accidents Claims Tribunal,
The Subordinate Judge,
Madurantakam.

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.14954

C.M.A.No.628 of 2021

AJB(CO)
RLP(29/09/2021)