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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2021

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.NO.943 OF 2021

The Managing Director,
Tamil Nadu State Transport
Corporation (Salem) Limited,
No.12, Ramakrishna Road,
Salem.

...Appellant / Respondent

Vs.

1.Neela
2.Murugammal
3.Krishnaveni
4.Krishnamoorthi
5.Annamalai
6.Pappathi
7.Rajiv Gandhi

...Respondents / Petitioners

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.04.2013 made in M.C.O.P.No.76 of 2013 on the file of the District Judge, Special Court for Motor Accidents Claims Tribunal, Krishnagiri.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The matter is heard through "Video Conferencing/Hybrid mode".

2.This Civil Miscellaneous Appeal has been filed challenging the quantum of compensation granted by the Tribunal in the award dated 30.04.2013 made in M.C.O.P.No.76 of 2013 on the file of the District Judge, Special Court for Motor Accidents Claims Tribunal, Krishnagiri.



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3.The appellant is the respondent in M.C.O.P.No.76 of 2013 on the file of the District Judge, Special Court for Motor Accidents Claims Tribunal, Krishnagiri. The respondents filed the above said claim petition claiming a sum of Rs.7,00,000/- as compensation for the death of one Manickam @ Maniyakarar, who died in the accident that took place on 24.11.2010.

4.According to respondents, on 24.11.2010, at about 01.30 A.M., while the deceased Manickam @ Maniyakarar was walking on the extreme left side of the Singarapettai to Uthangarai NH Road, near Indian Bank at Singarapettai, the driver of the bus bearing Registration No.TN 29 N 1828 belonging to appellant-Transport Corporation, who was driving the bus from Tiruvannamalai to Uthangarai, drove the same in a rash and negligent manner and dashed behind the said Manickam @ Maniyakarar and caused the accident. In the accident, the said Manickam @ Maniyakarar sustained fatal injuries all over the body and immediately after the accident, he was taken to Government Hospital, Uthangarai and given first aid treatment and was referred to Government Medical College Hospital, Salem. But the said Manickam @ Maniyakarar died on the way to Government Medical College Hospital, Salem. Therefore, the respondents filed the said claim petition claiming a sum of Rs.7,00,000/- as compensation for the death of the said Manickam @ Maniyakarar against the appellant-Transport Corporation.

5.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.5,40,000/- as compensation to the respondents.

6.Questioning the quantum of compensation awarded by the Tribunal in the award dated 30.04.2013 made in M.C.O.P.No.76 of 2013, the appellant-Transport Corporation has come out with the present appeal.

7.The learned counsel appearing for the appellant contended that the respondents failed to prove the age, avocation and income of the deceased. In the absence of any material evidence to prove the avocation and income of the deceased, a sum of Rs.6,000/- per month fixed by the Tribunal as monthly income of the deceased is excessive. The amount awarded



by the Tribunal towards funeral expenses is excessive. The total compensation awarded by the Tribunal is excessive and prayed for setting aside the award passed by the Tribunal.

WEB COPY 8. Heard the learned counsel appearing for the appellant-Transport Corporation and perused the entire materials on record.

9. From the materials available on record, it is seen that it is the claim of the respondents in the claim petition that the deceased was aged 60 years, working as Coolie as well as an Agriculturist and also doing all kind of seasonal business and was earning a sum of Rs.12,000/- per month. Except oral evidence, the respondents 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 year of accident and age of the deceased, fixed a sum of Rs.6,000/- per month as notional income of the deceased. The accident is of the year 2010 and the monthly income fixed by the Tribunal is not excessive. As per Ex.P2/postmortem certificate, the deceased was aged 65 years at the time of accident. The Tribunal, following the judgment of the Hon'ble Apex Court reported in 2009 (2) TN MAC 1 SC [Sarla Verma & Others vs. Delhi Transport Corporation & another] rightly applied multiplier '7'. There are seven dependants of the deceased and the Tribunal ought to have deducted 1/5th towards personal expenses of the deceased instead of deducting 1/6th. From the award passed by the Tribunal, it is seen that the amount awarded by the Tribunal towards loss of consortium is meagre and the Tribunal has also not awarded any amount towards loss of estate. In view of the failure on the part of the Tribunal for not awarding any amount towards loss of estate and awarding meagre amount of Rs.25,000/- towards loss of consortium, deduction of 1/6th made by the Tribunal towards personal expenses of the deceased and the amount awarded by the Tribunal towards funeral expenses are not interfered with. The Tribunal considering the entire materials on record, has awarded a sum of Rs.5,40,000/- as compensation to the respondents, which is not excessive warranting interference by this Court.

10. In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.5,40,000/- 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.76 of 2013 on the file of the District Judge, Special Court for Motor Accidents Claims Tribunal, 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

// True Copy //

Sub Assistant Registrar

krk

To

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

+1cc to Mr.D.Venkatachalam, Advocate SR.No.17269

C.M.A.No.943 of 2021

PP(CO)
RVM(09/11/2021)