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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.976 of 2021

The Managing Director,
TNSTC Limited,
Bharathipuram, Dharmapuri.

.. Appellant/1st Respondent

Vs.

1.Suseela

...1st Respondent/Petitioner

2.Devaraj

...2nd Respondent/2nd Respondent

3.Kannamma

..3rd Respondents/3rd Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 11.12.2012 made in M.C.O.P.No.1475 of 2006, on the file of the Chief Judicial Magistrate, (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")

This Civil Miscellaneous Appeal has been filed by the appellant-Transport Corporation challenging the quantum of compensation granted by the Tribunal in the award dated 11.12.2012 made in M.C.O.P.No.1475 of 2006, on the file of the Chief Judicial Magistrate, (Motor Accidents Claims Tribunal), Krishnagiri.

2.The appellant is the 1st respondent in M.C.O.P.No.1475 of 2006, on the file of the Chief Judicial Magistrate, (Motor Accidents Claims Tribunal), Krishnagiri. The 1st respondent/claimant filed the said claim petition, claiming a sum of Rs.5,25,000/- as compensation for the death of one Arumugam who died in the accident that took place on 10.04.2005. The parents of the deceased Arumugam were impleaded as the



respondents 2 and 3 in the claim petition.

3. According to the 1st respondent, on the date of accident, when the deceased Arumugam was riding Two Wheeler bearing Registration No. TN-29-3618 towards Dharmapuri from Pennagaram, near B. Agraharam Bus Stop and opposite to Saravana Hotel, on seeing the Bus bearing Registration No. TN-29-N-1361 owned by the appellant-Transport Corporation parked on the road without any signal or indication, while trying to overtake a travels Bus, the Two Wheeler dashed on the Bus owned by the appellant and thus, the accident occurred. In the accident, the said Arumugam sustained grievous injuries and died on the way to Hospital. The accident has occurred only due to the negligent parking of Bus owned by the appellant. Hence, the 1st respondent filed the claim petition claiming compensation for the death of Arumugam against the appellant as owner of the Bus involved in the accident.

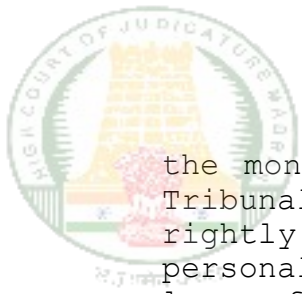
4. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to the negligent parking of Bus owned by the appellant-Transport Corporation and directed the appellant to pay a sum of Rs.5,41,000/- as compensation to the respondents.

5. Questioning the quantum of compensation granted by the Tribunal in the award dated 11.12.2012 made in M.C.O.P.No.1475 of 2006, the appellant - Transport Corporation has come out with the present appeal.

6. The learned counsel appearing for the appellant-Transport Corporation contended that the respondents did not file any document to prove the age, avocation and income of the deceased Arumugam. In the absence of any evidence, the Tribunal ought not to have fixed a sum of Rs.3,000/- per month as notional income of the deceased, which is excessive. The total compensation awarded by the Tribunal is excessive and prayed for reducing the compensation granted by the Tribunal.

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

8. It is the case of the respondents that at the time of accident, the deceased Arumugam was aged 26 years, running a Shop under the name and style "Amman Musicals" and was earning a sum of Rs.3,250/- per month. P.W.1, wife of the deceased Arumugam deposed to that effect. The Tribunal considering the evidence of P.W.1 and in the absence of any salary certificate to prove the income of the deceased, fixed a sum of Rs.3,000/- per month as notional income of the deceased Arumugam. The accident is of the year 2005. Considering the year of accident,



the monthly income fixed by the Tribunal is not excessive. The Tribunal fixing the monthly income at Rs.3,000/- per month, rightly applied multiplier '18' and after deducting 1/4th towards personal expenses of the deceased, awarded compensation towards loss of dependency. This Court is of the considered view that the awarded by the Tribunal under other heads are just and reasonable and hence, there is no infirmity in the award of the Tribunal, warranting interference by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed and the amount awarded by the Tribunal at Rs.5,41,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit is confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount 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.1475 of 2006. On such deposit, the respondents are permitted to withdraw their 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(CO)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Chief Judicial Magistrate,
(Motor Accident Claims Tribunal),
Krishnagiri.

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

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.17878

C.M.A.No.976 of 2021

GMR(CO)
CB(07/09/2021)