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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

CMA. NOS.1019 TO 1022 OF 2009

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Kumbakonam. ...Appellant/Respondent

..vs..

- 1.Sunitha .Respondent/Petitioner in CMA.No.1019 of 2019
- 2.Ujjwala .Respondent/Petitioner in CMA.No.1020 of 2019
- 3.Manisha S. Pawar .Respondent/Petitioner in CMA.No.1021 of 2019
- 4.Sonali Vishnu Pawar .Respondent/Petitioner in
CMA.No.1022 of 2019

Common Prayer : Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the common judgment and decree dated 04.01.2008 in M.C.O.P.Nos.838 of 2004, 839 of 2004, 158 of 2005 and 159 of 2005 on the file of the Motor Vehicles Accident Claims Tribunal and Principal Sub Judge, Salem.

For Appellant : Mr. D.Venkatachalam
(in all CMAs)

For Respondent : No Appearance (for All CMAs)

COMMON JUDGMENT

The matter is heard through "Video Conferencing".

Since common question of law is involved in all these appeals and the appeals filed against the award of Motor Accidents Claims Tribunal were disposed of by common judgment, they are also disposed of by a common judgment.

2. These Civil Miscellaneous Appeals have been filed by the Transport Corporation against the common judgment and decree



dated 04.01.2008 in M.C.O.P.Nos. 838 of 2004, 839 of 2004, 158 of 2005 and 159 of 2005 on the file of the Motor Vehicles Accident Claims Tribunal and Principal Sub Judge, Salem.

3.The appellant is the 2nd respondent before the tribunal. The respondents have filed separate claim petitions for compensation for the injuries sustained by them in the road accident that took place on 25.12.2000.

4. According to the respondents/claimants, on 25.12.2000 at about 10.15 hours the TATA Sumo vehicle bearing Reg.No. MH 120AN 1992 in which the appellants travelled was parked left side of the road behind the stationed Mahendra Van bearing Reg.No. TN 27-C-8793 for attending Nature Calls. At that time the driver of the appellant transport corporation bus bearing Reg.No.TN45-N-1047 which came from the same direction, dashed against back side of the TATA Sumo Vehicle. Due to which, the claimants/respondents herein and other passengers were sustained severe injuries. The respondents herein have filed separate claim petitions, claiming a sum of Rs. 5,00,000/-, Rs.5,00,000/-, Rs.4,00,000/- and Rs.4,00,000/- respectively from the Transport Corporation.

5.The appellant-Transport Corporation, filed counter statement before the tribunal and denied the mode of accident. The Transport Corporation also does not admit the age, avocation, income of the deceased.

6.Before the Tribunal, the respondents/claimants examined themselves as P.W.1 to P.W.4 and marked documents ExP1 to P6. The appellant examined its official as R.W.1 and no documents were marked.

7.The Tribunal after considering the pleadings, oral and documentary evidence, fixed liability on the part of driver of the transport corporation bus and awarded compensation of sum of Rs.1,02,500/-, Rs. 52,500/-, Rs.51,500/- and Rs. 52,500/- respectively to the claimants under various heads together with interest at 7.5% per annum payable by the Transport Corporation.

8.Challenging the liability fastened on them by the common award 04.01.2008 in M.C.O.P. Nos. 838 of 2004, 839 of 2004, 158 of 2005 and 159 of 2005 the appellant - Transport Corporation has come out with these appeals.

9. The learned counsel for the appellants submitted that the alleged accident had occurred only due to the rash and negligence on the part of the driver of the Tata Sumo Vehicle in which the claimants have traveled. It is further contended by the learned counsel that the tribunal erred in awarding



compensation towards medical expenses in the absence of sufficient documents. The sum awarded under other heads to all the claimants are excessive and the same is liable to be set aside.

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10. Heard learned counsel appearing for the appellant-Transport Corporation. No appearance for the claimants. Perused the materials available on record.

11. From a perusal of the award, it is clear that the tribunal by considering Ex.P2/Wound Certificate issued by the Mohan Kumaramangalam Government Medical College Hospital, Salem, granted compensation separately to the grievous injuries and simple injuries sustained by the claimant. Further the tribunal by considering the age, nature of injuries sustained and the treatment taken, has awarded compensation under other heads viz., loss of income, Extra nourishment, and transport expenses to the claimants. In view of the injuries, the compensation awarded under the above heads are reasonable and does not require any modification. It is true that the claimants have not produced any medical bills for their claim under medical expenses, but the tribunal by taking note of the treatment taken by the claimants for the injuries, has granted some considerable amount to the claimants under the head 'Medial Expenses'. Since the injuries and treatment taken the claimants are proved, the sum awarded by the tribunal under the head 'Medical Expenses' does not require any modification.

12. Further, the appellant before the tribunal, in their counter statement admitted the fact that the driver of the respondent bus, on seeing the lorry and Maruthi Car coming in the opposite direction rashly, fearing the collision stopped the vehicle by applying sudden break. When the bus was about to stop, it touched slightly the TATA SUMO Van, which was parked on the road side.

13. In view of the above, it is clear that the driver of the respondent bus alone is responsible for the said accident, who dashed against the parked vehilce. Therefore, considering the facts and circumstances of the case and considering the oral and documentary evidence, this Court has come to the conclusion that the tribunal has rightly fixed the negligence on the part of the appellant corporation driver and directed to pay the compensation by the Transport Corporation. The compensation awarded by the tribunal to the claimants is also found reasonable and does not require any interference by this Court.

14. In the result, these Civil Miscellaneous Appeals are dismissed. The compensation awarded by the tribunal is confirmed. The Appellant /transport Corporation shall deposit



the compensation amount along with interest, as awarded by the tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the respondents/claimants are permitted to withdraw the same by filing appropriate applications before the tribunal. No costs.

Sd/-
Deputy Registrar

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Sub Assistant Registrar

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To

1. The Principal Subordinate Judge,
(Motor Vehicles Accident Claims Tribunal)
Salem.
2. The Section Officer,
VR Section,
High Court, Madras.

+4cc to Mr.D.Venkatachalam, Advocate, S.R.No.2787, 2788,2789&2790

CMA. Nos.1019 to 1022 of 2009

MG(CO)
RGA(06/09/2021)