



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2021

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.2298 of 2021 and
C.M.P.No.12756 of 2021

Tamil Nadu State Transport Corporation,
Kumbakonam, Rep by the Managing Director,
having the office at Kumbakonam,
Kumbakonam Town and Munisifi,
Thanjavur District.

... Appellant/Respondent

vs.

1. Murugaiyan
2. Manimekalai
3. Vijayaragavan

... Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 10.11.2020 made in M.C.O.P.No. 13 of 2017 on the file of the Motor accident Claims Tribunal, Additional District Judge, Fast track Mahila Court, Nagapattinam.

For Appellant : Mr. D. Venkatachalam

J U D G M E N T

This Appeal has been filed by the Transport Corporation challenging the Award dated 10.11.2020 passed by the Motor Accident Claims Tribunal, Additional District Judge, Fast track Mahila Court, Nagapattinam in M.C.O.P.No. 13 of 2017, directing the Appellant/Transport Corporation to pay the Claimants a sum of Rs.11,75,367/- as compensation for the death of the deceased, who succumbed to the injuries sustained in an accident which occurred on 15.08.2016 involving the bus owned by the Appellant/Transport Corporation.

2. Before the Tribunal, the Respondents/Claimants claimed a sum of Rs 15,00,000/- as compensation for the death of deceased. In support of his claim, the Respondents/claimants marked Exs P1 to Exs P9 before the Tribunal and P.W.1 and P.W.2 were examined as witnesses. On the side of the, petitioner/appellant, R.W.1 was examined and no exhibits were



marked.

3. On consideration of the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.11,75,367/- as compensation to the Respondent/Claimant. Details of the compensation awarded by the Tribunal under the

impugned Award, are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Loss of Dependency	15,24,096
Loss of parental consortium and brotherhood consortium (Rs.40,000x3)	1,20,000.0
Loss of Estate	10,000.00
Transportation Charges	10,000.00
Funeral Expenses	15,000.00
	16,79,096
Less: 30% Negligence fixed on the deceased	5,03,729
Total	11,75,367

4. Heard the learned counsel for the parties and perused the material documents available on record.

5. The Appellant has challenged the impugned award on the ground that mere registration of an FIR is not enough for holding negligence on their part. Further when the deceased tried to get down from the running bus he fell down from the bus and therefore the entire negligence ought to have been fixed against the deceased. Further, the Tribunal has fixed the monthly income of the deceased at Rs.7,560/- without any proof which is on the higher side and the Tribunal instead of deducting 50% towards personal expenses of the deceased who is a Bachelor has deducted 1/3 towards personal expenses of the deceased. Further, the compensation awarded by the Claims Tribunal is very high and the same needs to be reduced.

6. Insofar as the first contention raised by the appellant is concerned, the Respondents/ Claimants has proved his case by not alone filing an FIR, which has been marked as Ex.P1 but has also adduced oral evidence through an eyewitness to the accident viz., PW2 and Ex.P2-Postmortem Certificate was also filed to prove that the injured died in an accident and further a Criminal case also been filed against the driver of the bus,



who has been suspended from service. No contra evidence has been produced by the appellant before the Tribunal to disprove the contention of the Respondents/ Claimants that only due to the rash and negligent driving by the driver of the bus owned by the Appellant / Transport Corporation, the accident had happened which resulted in death of one Vijayabalan. Therefore, this Court is of the considered view that there is no basis for the Appellant to contend that mere registration of an FIR against the Driver of the bus without corroboration by any other independent witness. Further, considering the fact that the deceased tried to get down from the bus has rightly fixed negligence of 30% on the deceased and rest of the liability on the Transport Corporation, which need not be interfered with.

7. Insofar as the fixation of monthly income of the deceased is concerned, the Tribunal by considering the evidence of P.W.1, who stated that the deceased worked as a Mechanic and Electrician and was earning not less than Rs.20,000/- per month and since no proof of income is filed considering the cost of inflation issued by the Central Board of Direct Tax which was discussed in the Judge of this Court in Andal and two others Vs. Avinav Kannan and New India Assurance Company Ltd., Chennai reported in 2019 (1) TNMAC 54 (DB), had fixed a sum of Rs.7,560/- as notional income of the deceased and therefore the same cannot be said to be excessive.

8. Since, the deceased left behind the claimants 1 to 3 as legal heirs, the Claims Tribunal has rightly deduced 1/3rd as personal expenses of the deceased and thereafter by applying multiplier '18' has rightly awarded a sum of Rs.15,24,096/- (84,672x18) as compensation. Even assuming for the sake of argument 50% ought to have taken instead of 1/3rd deduction, the monthly income taken by the Tribunal is very meager and therefore I find no error on the compensation awarded by the Tribunal towards Loss of Dependency. Further, the quantum of compensation awarded by the Tribunal to the Respondents/Claimants under various heads, totalling a sum of Rs.11,75,367/-, cannot be considered to be excessive, as alleged by the Appellant/ Transport Corporation. For the foregoing reasons, this Court does not find any merit in this Appeal and accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

9. The Appellant/Transport Corporation is directed to deposit the entire amount awarded by the Tribunal together with interest at 7.5% per annum from the date of the Claim Petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P.No. 13 of 2017 on the file of the Motor Accidents Claims Tribunal, Additional District



Judge, Fast Track Mahila Court, Nagapattinam, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the Award amount, as apportioned by the Tribunal directly to the Bank account of the Respondents/Claimants through RTGS, within a period of two weeks.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

arr

To:

1. The Motor accident Claims Tribunal,
Additional District Judge,
Fast Track Mahila Court,
Nagapattinam.
2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.40343

C.M.A.No. 2298 of 2021

GSM(CO)
CB(09/11/2021)