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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.2274 of 2021 and
C.M.P.No.12656 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation ,
Salamedu, Vazhureddy post,
Villupuram.

...Appellant/Respondent

vs.

1. Kasthuri
2. Deenadayalan
3. Kulasekaran
4. Elangovan
5. Mahalakshmi
6. Bakkiyalakshmi
7. Kalaiarasi

...Respondents/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 24.03.2020 made in M.C.O.P.No.452 of 2018 on the file of the Motor accident Claims Tribunal, Special Sub Judge, Thiruvannamalai.

For Appellant: K.J.Sivakumar

J U D G M E N T

This Appeal has been filed by the Transport Corporation challenging the Award dated 24.03.2020 passed by the Motor Accident Claims Tribunal, Special Sub Judge, Thiruvannamalai in



M.C.O.P.No.452 of 2018, directing the Appellant/Transport Corporation to pay the Claimants a sum of Rs.10,17,360/- as compensation for the death of the deceased, who succumbed to the injuries sustained in an accident which occurred on 25.03.2018 involving the bus owned by the appellant/Transport Corporation. Respondents/Claimants are the wife and children of the deceased.

2. Before the Tribunal, the Respondent/Claimant claimed a sum of Rs.25,00,000 /- as compensation for the death of the deceased. In support of his claim, the Respondents/claimants marked Exs.P1 to Exs.P7 before the Tribunal and P.W.1 to P.W.4 were examined as witnesses. On the side of the, Appellant, R.W.1 and R.W.2 were examined and Exs.R1 and R3 were marked.

3. On consideration of the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.10,17,360/- as compensation to the Respondents/Claimants. Details of the compensation awarded by the Tribunal under the impugned Award, are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Loss of Income	9,87,360.0
Funeral Expenses	15,000.000
Loss of Estate	15,000.000
Total	10,17,360.0

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 the Tribunal failed to consider the evidence of RW1 and RW2, who are the driver of the bus and concerned police official respectively and they have categorically deposed that the deceased drove the vehicle in rash and negligent manner and tried to overtake the bus and dashed against the bus. Further, the Tribunal ought not to have fixed the monthly income of the deceased at Rs.8,500/- . The overall 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 Respondent/ Claimant has proved his case by adducing oral evidence through eyewitnesses to the



accident viz., PW2 & P.W.4. The Claims Tribunal on considering the same has held that the accident occurred due to rash and negligent driving by the driver of the Transport Corporation. Therefore, this Court is of the considered view that the same need not be interfered with.

7. Insofar as the fixation of monthly income of the deceased at Rs.8,500/- is concerned, P.W.1, deposed before the Claims Tribunal that the deceased worked in the T.K.D. Transport Corporation as well as Petrol Bunk as Manager and earned a sum of Rs.25,000/- per month. As per Ex.P6 and Ex.P7, the deceased worked in the T.K.D. Transport Corporation as a Manager for twenty years and earned a sum of Rs.15,000/- . Since, there is no proof with respect to the monthly income of the deceased, the Claims Tribunal on considering his age as well as Exs.P6 and P7 had fixed a sum of Rs.8,500/- as monthly income of the deceased which cannot be said to be excessive. Further, the Claims Tribunal taking note of the Judgment of the Hon'ble Apex Court in the case of Sarla Varma Vs. Delhi Transport Corporation Ltd., reported in TNMAC 2009 (2) SC, has deducted 1/5th towards personal expenses of the deceased and applied the multiplier 11 and by referring to the Judgment of the Hon'ble Apex Court in the case of National Insurance Company Vs. Pranay Sethi and others reported in 2017 (2) TN MAG 609 (SC) has awarded 10% towards future prospects and the compensation was awarded towards Loss of Income at Rs.9,87,360/- which cannot be said to be excessive.

8. Considering the age and avocation of the deceased, the quantum of compensation awarded by the Tribunal to the Respondents/Claimants under various heads, totalling a sum of Rs.10,17,360/-, 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.452 of 2018 on the file of the Motor Accidents Special Sub Judge, Thiruvannamalai, 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 respective shares of



the claimants as apportioned by the Tribunal directly to the Bank account of the Respondents/Claimants through RTGS, within a period of two weeks.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

(arr)

To:

1. The Special Sub Judge,
Motor accident Claims Tribunal,
Thiruvannamalai,
2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai 600 104.

+1 CC to Mr.K.J. Sivakumar, Advocate sr 41390.

C.M.A.No. 2274 of 2021

BP(CO)
SP(06/01/2022)