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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2021

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THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.1982 of 2021 and
C.M.P.No.10692 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation ,
Villupuram Division,
Villupuram. ... Appellant-I/Respondent-I
Vs.

1. Periyasamy

2. Indira ... Respondents 1 & 2/Claimants

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 03.11.2020 made in M.C.O.P.No. 154 of 2018 on the file of the Motor Accident Claims Tribunal, Sub Judge, Gingee.

For Appellant : Mr. K.J.Sivakumar

J U D G M E N T

This Appeal has been filed by the Transport Corporation challenging the Award dated 03.11.2020 passed by the Motor Accident Claims Tribunal, Sub Judge, Gingee in M.C.O.P.No. 154 of 2018, directing the Appellant/Transport Corporation to pay the Claimants a sum of Rs.15,82,000/- as compensation for the death of the deceased, who succumbed to the injuries sustained in an accident which occurred on 05.02.2018 involving the bus owned by the Appellant/Transport Corporation.

2. Before the Tribunal, the Respondents/Claimants claimed a sum of Rs.60,00,000/- as compensation for the death of the deceased. On the side of the Respondents/Claimants, P.W.1 and P.W.2 were examined as witnesses and Exs.P1 to P15 were marked before the Tribunal. On the side of the, Appellant/Transport



Corporation, R.W.1 was examined and no exhibit was marked.

3. On consideration of the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.15,82,000/- as compensation to the Respondents/Claimants. Details of the compensation awarded by the Tribunal under the impugned Award, are as follows :

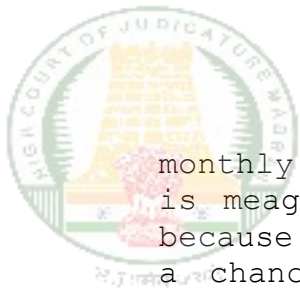
Heads	Amount awarded by the Tribunal (Rs.)
Loss of dependency	15,12,000/-
Loss of Parental Consortium	40,000/-
Loss of Estate	15,000/-
Funeral Expenditure	15,000/-
Total	Rs.15,82,000/-

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 and further the Tribunal has not considered the evidence of R.W.1 who is the driver of the bus. He further submitted that the learned Tribunal ought not to have fixed the income of the deceased at Rs.10,000/- per month without any proof which is on the higher side and the compensation awarded by the Tribunal under various heads are also excessive and the same needs to be reduced.

6. Insofar as the first contention raised by the Appellant is concerned, the Respondents/Claimants have proved their 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., P.W.2. Further, on a perusal of Ex.P7- Rough sketch, it is seen that the accident occurred only due to the rash and negligent driving by the driver of the Transport Corporation. 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.

7. Insofar as the income of the deceased is concerned, P.W.1 deposed that at the time of accident the deceased was a final year IIT student and considering the age of the deceased at the time of accident, the Claims Tribunal has rightly fixed the



monthly income of the deceased at Rs.10,000/- per month which is meagre and therefore the same does not warrant interference because the deceased being a I.I.T. student will definitely have a chance of seeking better employment in future. As per the decision of the Hon'ble Apex Court, in the case of "Pranay Sethi Vs. National insurance company", reported in, 2017(2) TNMAC 609, future prospects @40% was added, the future prospect of the deceased is added and since the deceased was a bachelor at the time of accident, 50% deducted towards personal expenses, Further, as per the Judgment of the Hon'ble Supreme Court, in the case of "Sarala Verma Vs. Delhi Transport Corporation", reported in, 2009 ALJ 129 (SC), the Tribunal adopted the multiplier 18 and rightly awarded the compensation towards Loss of dependency at Rs.15,12,000/- (Rs.10,000+(10,000x40/100)x12x18-1/2) which is very low and the same cannot be interfered with.

8. Taking note of the fact that the Claimants lost their only son in the said accident, the quantum of compensation awarded by the Tribunal to the Respondents/Claimants under various heads, totalling a sum of Rs.15,82,000/-, 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. 154 of 2018 on the file of the Motor Accidents Claims Tribunal, Sub Judge, Gingee, 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-VIII)

// True Copy //

Sub Assistant Registrar

(arr)/(shk)



To:

1.The Sub Judge,
Motor accident Claims Tribunal,
Gingee.

2.The Section Officer,
V.R. Section,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.K.J.Sivakumar, Advocate SR.No.43457

C.M.A.No. 1982 of 2021

VG II(CO)
CB(10/12/2021)