



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

C.M.A.NO.2254 OF 2021

AND

CMP.NO.12474 OF 2021

TNSTC (Villupuram) Ltd.,
Rep by its Managing Director,
No.3/131, Salamedu,
Vazhuthareddy Post,
Villupuram Taluk - 605 401

...Appellant / Respondent

Vs.

1.Tamizharasi,
2.Mrs.Puspha,

...Respondents / Petitioners

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, pleaded to set aside the Decree and Judgment dated 21.01.2020 made in M.C.O.P.No.6333 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Judge II, Small Causes Court, Chennai.

For Appellant : Mr.K.J.Sivakumar

For Respondent : NA

J U D G M E N T

The matter is heard through "Video Conferencing/Hybrid mode".

2. This Civil Miscellaneous Appeal has been filed challenging the quantum of compensation granted by the Tribunal in the award dated 21.01.2020 made in M.C.O.P.No.6333 of 2016 on the file of the Motor Accidents Claims Tribunal, Special Sub Judge II, Small Causes Court, Chennai.

3. The appellant is the respondent in M.C.O.P.No.6333 of 2016 on the file of the Motor Accidents Claims Tribunal, Special Sub Judge II, Small Causes Court, Chennai. The respondents filed the above said claim petition claiming a sum of Rs.30,00,000/- as compensation for the death of one Murugan , who died in the accident that took place on 07.08.2016 against the appellant-Transport Corporation.



4. According to respondents, on 07.08.2016 at about 8:00 A.M., while the deceased Murugan was driving the motorcycle bearing Registration No.TN 02 AE 6597 on the Chengalpattu - Chennai near Pulippakkam junction at that time the driver of the bus bearing Registration No.TN 32 N 3999 belonging to appellant-Transport Corporation drove the same in a rash and negligent manner from Chennai towards Villupuram and dashed against the motorcycle driven by the said Murugan and caused the accident. In the accident, the said Murugan sustained fatal injuries and he was admitted in the Government Hospital and later died on 15.08.2016. Therefore, the respondents, being the mother and sister of the deceased Murugan filed the above said claim petition claiming a sum of Rs.30,00,000/- as compensation against the appellant-Transport Corporation.

5. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to appellant-Transport Corporation and directed the appellant to pay a sum of Rs.18,17,200/- as compensation to the first respondent/mother.

6. Before the Tribunal, the 1st respondent examined herself as P.W.1, one Gopi, eyewitness to the accident was examined as P.W.2 and 10 documents were marked as Exs.P1 to P10. The appellant-Transport Corporation examined the driver of the bus as R.W.1.

7. Questioning the quantum of compensation awarded by the Tribunal in the award dated 21.01.2020 made in M.C.O.P.No.6333 of 2016, the appellant-Transport Corporation has come out with the present appeal.

8. The learned counsel appearing for the appellant-Transport Corporation contended that the respondents failed to prove the age, avocation and income of the deceased. In the absence of any material evidence to prove the avocation and income of the deceased, a sum of Rs.13,000/- per month fixed by the Tribunal as notional income of the deceased is excessive. The total compensation awarded by the Tribunal is excessive and prayed for setting aside the award of the Tribunal.

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

10. It is the case of the respondents that at the time of accident the deceased Murugan was aged 33 years, working as a Mechanic and was earning a sum of Rs.18,000/- per month. In the absence of any material evidence with regard to avocation and



income, the Tribunal considering the year of accident, age and nature of work done by the deceased, fixed a sum of Rs.13,000/- per month as notional income of the deceased and the same is not excessive. The deceased was a bachelor at the time of accident. Hence, the Tribunal has rightly deducted 50% from the monthly income of the deceased towards his personal expenses and awarded a sum of Rs.2,18,400/- as compensation towards loss of dependency and the same is not excessive. The Tribunal considering the entire materials on record, has awarded a sum of Rs.18,17,200/- as compensation to the first respondent/mother, which is not excessive warranting interference by this Court.

11. In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.18,17,200/- awarded by the Tribunal as compensation to the first respondent along with interest and costs is confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount if any 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.6333 of 2016 on the file of the Motor Accidents Claims Tribunal, Special Sub Judge II, Small Causes Court, Chennai. On such deposit, the first respondent/mother is permitted to withdraw her entire award amount 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. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

dpq

To

1.The Special Sub Judge,
II Small Causes Court,
Chennai.

2.The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.K.J.Sivakumar, Advocate Sr.No.44201

C.M.A.No.2254 of 2021

VG-II(CO)

RVM(11/03/2022)