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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.NO.2301 OF 2021

AND

C.M.P.NO.12770 OF 2021

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Division III. NH4, Ponnerikarai,
Karaipettai Village and Post,
Kanchipuram.

... Appellant/Respondent

Vs.

1. S.Subhashini
2. Minor. S.Abinaya
(Minor Rep. by her mother 1st Respondent)
3. S.Ranjitham
4. Minor. S.Dilip
(Minor Rep. by his mother, 3rd Respondent)
5. K.Anjalai

... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to set aside the Decree and Judgment dated 18.01.2021 made in MCOP No. 512 of 2019, on the file of the Motor Accidents Claims Tribunal, Additional District Court (Fast Track Court), Kanchipuram.



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For Appellant : Mr.K.J.Sivakumar

For Respondents : Mr.M.Sivakumar (for R1 to R5)

JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

This appeal is directed against the award passed by the Motor Accidents Claims Tribunal, Additional District Court (Fast Track Court), Kanchipuram. in MCOP No. 512 of 2019.

2.The respondents filed the claim petition seeking compensation of Rs. 60,00,000/- for the death of one K.Sudhakar in road accident occurred on 09.11.2018. The case of the claimants is that the deceased was working as a 'Conductor' in the appellant-Transport Corporation and when he was on duty while the bus was proceeding from Trichy to Chennai National Highways, before Rajakulipettai Bus stand, met with an accident. It is their further case that the driver of the bus drove it in a rash and negligent manner and hit against a Tanker Lorry bearing Reg. No.TN-28-BP-9959. In the impact, the deceased suffered multiple injuries and died on the spot.

3.The claim was resisted by the appellant contending that the driver of the tanker lorry bearing Reg.No.TN-28-BP-9959 is responsible for the accident and the claim was excessive and exorbitant and prayed for dismissal of the claim petition.

4.During trial, P.W.1 and P.W.2, who are said to be eyewitnesses to the accident, deposed that the driver of the Tanker Lorry came in a rash and negligent manner and caused the accident. They also produced documentary evidence in support of their evidence.

5.On appreciation of evidences, the Tribunal held that the accident had occurred only due to the rash and negligent driving of the driver of the Tanker Lorry, but awarded compensation of Rs.46,26,880/- directing the appellant to pay the amount.



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6.The learned counsel appearing for the appellant would submit that when the Tribunal found that the accident was caused by the driver of the Tanker Lorry, it may not be appropriate to direct the appellant Transport Corporation to pay the compensation. It is further submitted that the Tribunal has erred in fixing the income as Rs.24,111/- per month.

7.Per contra, Mr.M.Sivakumar, learned counsel appearing for the respondents/claimants would submit that admittedly, the owner and the insurer of the Tanker Lorry were not made as parties to the claim petition and if an opportunity is given to the claimants, they are ready to implead the necessary parties and proceed with the case.

8.Perusal of the records shows that the Tribunal mainly based on the evidence of P.W.2, came to the conclusion that the driver of the Tanker Lorry was responsible for the accident, but fixed the liability of payment of compensation upon the appellant. The said finding was recorded without providing an opportunity to the owner as well as the Insurer of the Tanker Lorry.

9. In the light of the submission of the learned counsel for the appellants and also taking note of the facts of the case, the award of the Tribunal is set aside and the matter is remitted back to the Tribunal to provide the opportunity to the claimants to implead the necessary parties. After impleading the necessary parties, the claim petition shall be disposed of as expeditiously as possible preferably within a period of six months therefrom.

10.With the above direction, this Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

gba/skn



To

The Motor Accident Claims Tribunal,
District Court (Fast Track Court),
Kanchipuram

Copy To

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

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.42375

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.43114

C.M.A.No.2301 of 2021
and
C.M.P.No.12770 of 2021

KV(CO)
RLP(23/11/2021)