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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.2511 of 2021 and
C.M.P.No.14422 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation
(Salem Division -1) Ltd.,
No.12, Ramakrishna Road,
Salem-7.

...Appellant/2nd Respondent

vs.

1. Pappathi
2. Chandra
3. K.Subramani ... Respondents 1 to 3/Petitioners 1 to 3
4. Ramesh ...4th Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 28.02.2019 made in M.C.O.P.No.286 of 2014 on the file of the Motor Accident Claims Tribunal, I Additional District Court, Tiruppur.

For Appellant : M/S. D. Raghu

J U D G M E N T

This Appeal has been filed by the Transport Corporation challenging the Award dated 28.02.2019 passed by the Motor Accident Claims Tribunal, I Additional District Court, Tiruppur in M.C.O.P.No. 286 of 2014, directing the Appellant/Transport Corporation to pay the Claimants a sum of Rs.7,30,000/- as compensation for the death of the deceased, who succumbed to the injuries sustained in an accident which occurred on 01.03.2013 involving the bus owned by the Appellant/Transport Corporation. Respondents/Claimants are the dependants of the deceased viz., wife, daughter and son.



2. Before the Tribunal, the Respondents 1 to 3/Claimants claimed a sum of Rs.10,00,000/- as compensation for the death of the deceased. On the side of the Respondent/Claimants, P.W.1 & P.W.2 were examined as witnesses and Exs.P1 to Exs.P10 were marked before the Tribunal. On the side of the Appellant/Transport corporation, R.W.1 was examined as witness and Ex.R1 was marked before the Tribunal.

3. On consideration of the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.7,30,000 /- as compensation to the Respondents 1 to 3/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	6,30,000
Loss of consortium	80,000.0
Funeral expenses	15,000.0
Transport expenses	5,000.00
Total	Rs.7,30,000/-

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. Further, the Tribunal ought not to have deducted 1/4 towards personal expenses as there are only three claimants. The learned Tribunal erred in fixing a sum of Rs.10,000/- per month as income of the deceased, without any proof. The Compensation awarded by the Tribunal towards Funeral expenses, Loss of Estate are very high and the same needs to be reduced.

6. Insofar as the first contention raised by the Appellant is concerned, the Respondents 1 to 3/ 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 P.W.2. No contra evidence has been produced by the Appellant before the Tribunal to disprove the contention of the Respondents 1 to 3/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 occurred, which resulted in the death of the deceased. 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, the Claimants have stated that at the time of accident, the deceased was doing agriculture and doing milk business and earning a sum of Rs.20,000/- per month. In support of the same, the Claimants have produced Ex.P8-patta, Ex.P9- details of the property, Ex.P10-Adangal before the tribunal. Further P.W.1- Son of the deceased in his evidence has stated that his father was a retired employee of the Electricity Department. The Tribunal on considering the same fixed a sum of Rs.10,000/- per month as income of the deceased, which cannot be said to be excessive.

8. Considering the age of the deceased at the time of accident and taking note of the Judgment of the Hon'ble Apex Court, in the case of New India Assurance Co.Ltd., Vs. Banumathy Anand and others, reported in, 2018 ACJ 2474, after deducting 1/4th towards personal expenses and by adopting multiplier 7 as per the guidelines provided in the case of Sarla Verma Vs. Delhi Transport corporation, reported in, (2009) 4 MLJ 997, the Claims Tribunal has awarded the compensation towards Loss of income at Rs.6,30,000/- . Though, it is true that there are only three dependants for the deceased, but the Tribunal has deducted 1/4th towards personal expenses, this Court feels that the compensation awarded towards Transport Expenses and Funeral Expenses are very low and therefore the award passed towards Loss of Income need not be interfered with.

9. Considering the fact that the Respondents 1 to 3/Claimants have lost their beloved family member, the quantum of compensation awarded by the Tribunal to the Respondents 1 to 3/Claimants under various heads, totalling a sum of Rs.7,30,000/-, 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.

10. 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.286 of 2014 on the file of the Motor Accidents Claims Tribunal, I Additional District Court, Tiruppur, 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 1 to 3/Claimants through RTGS, within a period of two weeks.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

(arr)/(shk)

To:

1. The Motor accident Claims Tribunal,
I Additional District Court,
Tiruppur.
2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai 600 104.

C.M.A. No.2511 of 2021

RR (CO)
K.RK. (29.10.2021)