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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A. No. 1393 of 2014 and
M.P.No. 1 of 2014

The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Limited,
No. 3/137, Salamedu, Vazhuthareddy,
Villupuram - 605 602.
Formerly known as Thanthai Periyar
Transport Corporation.

...Appellant/Respondent

Vs

1. A. Muniyamma
2. Athimoolam

...Respondent/Petitioners

Prayer: The Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Decree and Judgement dated 12.09.2013 made in M.C.O.P.No.4432 of 2005 on the file of the Motor Accidents Claims Tribunal, II Small Causes Judge, Chennai.

For Appellant : Mr. K.J. Sivakumar
For 1st Respondent : No such person
For 2nd Respondent : Died

JUDGMENT

This appeal has been filed challenging the impugned order dated 12.09.2013 passed by Motor Accidents Claims Tribunal (II Small Causes Court, Chennai) in M.C.O.P. No. 4432 of 2005.

2. The Tribunal, under the impugned order, has directed the Appellant Transport Corporation to pay the respondents/claimants a compensation of Rs.7,59,000/- (Rupees Seven Lakhs Fifty Nine Thousand only) for the death of Mr.Anbzhagan, who died in an accident that took place on 26.07.2005 caused by a bus, owned by the appellant Transport Corporation.

3. The Tribunal has awarded a total compensation of Rs.7,59,000/- (Rupees Seven Lakhs Fifty Nine Thousand only), as detailed hereunder:-



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Loss of Income	
R.6,750 x 12 = Rs.81,000/-	
(less 50% towards personal expenses)	
Rs.40,500 x 18	 Rs.7,29,000
Funeral Expenses	Rs. 10,000
Loss of Love and Affection	Rs. 20,000
Total compensation	Rs.7,59,000/-

4. The appellant has challenged the impugned order, questioning the liability and also the quantum of compensation awarded by the Tribunal.

5. With regard to the first contention, the Tribunal has held that the appellant Transport Corporation is liable to pay the compensation only based on the materials and evidence available on record. Admittedly, the First Information Report (Exhibit P1) has been registered only against the driver of the bus, owned by the appellant Transport Corporation. Even though, the driver of the bus, who had caused the accident, was examined as a witness (RW1), his evidence cannot be accepted as he is not an independent witness. Apart from the driver of the bus, no eye witness has been examined by the appellant Transport Corporation before the Tribunal. Rough sketch Ex.P.2 has also been filed by the police before the Tribunal which reveals that only the bus owned by the appellant Transport Corporation was responsible for the cause of the accident.

6. The Tribunal, only after considering the afore mentioned factors, has rightly held that the driver of the bus owned by the appellant Transport Corporation alone responsible for the cause of the accident, which resulted in the death of Mr. Anbazhagan. This Court does not find any infirmity in the findings of the Tribunal.

7. With regard to the second contention viz., the quantum of compensation, this court also does not find any scope for interference for the following reasons:-

a) The accident happened on 26.07.2005. The deceased Mr. Anbazhagan was aged 24 years at the time of accident and was a student and also a part time Typist. The Tribunal has assessed the notional monthly income of the deceased at Rs.4,500/- (Rupees Four Thousand Five Hundred only) which cannot be considered to be excessive, as alleged by the appellant Transport Corporation.



b) The Tribunal has rightly given due consideration to the year of the accident before assessing the notional monthly income of the deceased.

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c) The Tribunal has also rightly deducted 50% towards the personal expenses of the deceased in accordance with the settled law as the deceased was a bachelor at the time of the accident. The correct multiplier was also adopted by the Tribunal in accordance with the settled law. Loss of future prospects has rightly been awarded.

8. This Court is of the considered view that the total compensation of Rs.7,59,000/- (Rupees Seven Lakhs Fifty Nine Thousand only) awarded by the Tribunal cannot be considered to be excessive as the compensation awarded by the Tribunal under various heads is just and reasonable, which needs no interference.

9. For the foregoing reasons, there is no merit in this Civil Miscellaneous Appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed

10. The appellant/Transport Corporation is directed to deposit the compensation amount awarded by the Tribunal, after deducting the amount already deposited if any, together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit and costs, to the credit of MCOP.No.4432 of 2005 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the amount lying to the credit of MCOP.No.4432 of 2005 to the bank account of the claimant through RTGS within a period of one week thereafter.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sr/rgi

To

1. The II Judge
The Motor Accidents Claims Tribunal,
Court of Small Causes, Chennai



2. The Section Officer,
V.R.Section, High Court, Madras - 104.

+1 CC to Mr.K.J. Sivakumar, Advocate sr 45450.

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C.M.A.No. 1393 of 2014

VGII (CO)
SP(27/10/2021)