



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN
C.M.A.No.3775 of 2019
and
C.M.P.No.21711 of 2019

The Managing Director,
KSRTC, K.H.Road,
Bengaluru, Karnataka - 560 027.

... Appellant

Vs.

1.Palani
2.Kanda Swamy
3.Devaraj
4.Saravana
5.Dhanalakshmi

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the fair and decreetal order dated 25.10.2018 passed in M.C.O.P.No.177 of 2016 by the Motor Accident Claims Tribunal, (Additional District Judge) at Hosur.

For Appellant : Mr.T.Thiyagarajan
For Respondents : Mr.C.Prabakaran

JUDGMENT

The State Transport Corporation is the appellant in this appeal. It is aggrieved by the impugned judgment and decree dated 25.10.2018 in M.C.O.P.No.177 of 2016 by the Motor Accident Claims Tribunal, (Additional District Judge) at Hosur.

2.The Tribunal has awarded a sum of Rs.15,92,500/- as compensation to the claimants under the following heads:

Loss of dependency	Rs.11,70,000/-
Loss of love and affection	Rs. 50,000/-
Transportation	Rs. 10,000/-
Funeral Expenses	Rs. 15,000/-
Loss of estate	Rs. 15,000/-
Loss of Future prospects	Rs. 2,92,500/-
Loss of consortium	Rs. 40,000/-
Total	Rs.15,92,500/-



3.The liability fastened on the appellant is contested on the ground that the deceased was negligent and was responsible for the accident and death and therefore the Tribunal ought to have reduced the compensation on account of the contributory negligence of the deceased and awarded lesser compensation to the respondents/claimants. It is further submitted that the deceased was aged about 49 years and other claimants apart from her husband were not minors and therefore cannot be said to be her dependents. It is submitted that the Tribunal ought to have deducted 50% of the income towards personal expenses of the deceased and therefore prays for allowing this appeal to that extent.

4.The learned counsel for the respondent submits that the impugned judgment and decree passed by the Motor Accident Claims Tribunal was well-reasoned and requires no interference.

5.Heard the learned counsel for the appellant and the respondents.

6.In my view, the Tribunal has come to a fair conclusion while awarding the compensation. It has awarded a Just compensation. Neither the appellant nor the respondents have filed any documents to substantiate the manner in which the accident had taken place. Ex.P1-FIR was lodged against the driver of the bus. It was incumbent on the part of the appellant/State Transport Corporation have to produced the accident sketch and eye witnesses inorder to make out a case for contributory negligence. As neither the appellant nor the respondents have produced any documents to substantiate the same. The finding of facts determined by the Tribuanl cannot be therefore disturbed. Under these circumstances, the appeal filed by the appellant/state Transport Corporation is liable to be dismissed.

7.Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VII)

// True Copy //

Sub Assistant Registrar



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To:

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1.The Motor Accident Claim Tribunal,
(Additional District Judge) at Hosur.

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

+1CC to M/s.T.Thiyagarajan, Advocate, SR.No. 23232

+1CC to M/s.C.Prabakaran, Advocate, SR.No. 23077

C.M.A.No.3775 of 2019

and

C.M.P.No.21711 of 2019

PMK(CO)

B.VC (17/09/2021)