



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No. 2866 of 2021

and

C.M.P. No.16480 of 2021

Tamilnadu State Transport
Corporation (Kumbakonam),
Rep. by its Managing Director,
Trichy Region, Periyamilaguparai,
Trichy - 1. ... Appellant/Respondents

Vs.

1. Jothimani
2. Sangeetha
3. Mageshwari
4. Pazhani
5. Pazhanal ... Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 09.04.2021 made in M.C.O.P. No. 1641 of 2016 on the file of the Special Motor Accident Claims Tribunal, Presiding Officer, Tirppur.

For Appellant : Mr. L.Ramanathan

JUDGMENT

This Appeal has been filed by the Appellant Transport Corporation challenging the award dated 09.04.2021 passed by the Motor Accident Claims Tribunal, Presiding Officer, Tirppur in M.C.O.P. No. 1641 of 2016.

2. The Appellant Transport Corporation has challenged the impugned award questioning the fixation of negligence on the part of the Driver of the bus by the Tribunal and they have also challenged the quantum of compensation awarded by the Tribunal.

3. The Tribunal under the impugned award directed the Appellant Transport Corporation to pay the respondents/claimants a compensation of Rs. 19,60,000/- as detailed hereunder for the death of one Subramani caused by a bus owned by the Appellant Transport Corporation on 27.05.2016.



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Heads	Amount Awarded by the Tribunal in Rs.
Loss of Income	18,90,000/-
Loss of estate	15,000/-
Loss of consortium	40,000/-
Funeral expenses	15,000/-
Total	19,60,000/-

4. Heard Mr.L.Ramanathan, learned counsel for the appellant / Transport Corporation

5. This Court has perused and examined the impugned award as well as the materials and evidence available on record before the Tribunal.

6. Before the Tribunal the respondents / claimants have filed six documents which were marked as Ex.P1 to Ex.P6 and two witnesses were examined on their side namely the first respondent / first claimant, the wife of the deceased (PW1) and an eye witness to the accident one Gobi as PW2. On the side of the Appellant Transport Corporation, no documents were filed but the driver of the bus one Rajendiran who caused the accident was examined as witness.

7. The FIR has been registered only against the driver of the bus owned by the Appellant Transport Corporation. In the claim petition, the respondents/ claimants have also pleaded that only due to the rash and negligent driving by the driver of the bus, the accident happened. The depositions of PW1 and PW2 also reveal that only the driver of the bus owned by the Appellant Transport Corporation is responsible for the cause of the accident which resulted in the death of one Subramani. Based on preponderance of probabilities, the Tribunal has held the Driver of the bus responsible for the cause of the accident. No contra evidence has been produced by the Appellant Transport Corporation before the Tribunal to disprove the claim of the respondents / claimants.

8. Though the Driver of the bus was examined as a witness by the Appellant Transport Corporation, as he is not an independent witness, his deposition cannot be accepted by this Court. Since the FIR and other evidence clearly reveals that only the driver of the bus alone responsible for the cause of the accident.

9. Therefore, the first contention of the Appellant Transport Corporation questioning the fixation of negligence on the part of the Driver of the bus owned by the Appellant Transport Corporation is rejected.



10. Insofar as the quantum of compensation awarded by the Tribunal is concerned, the Tribunal has awarded a total compensation of Rs.19,60,000/- to the respondents/ claimants. The Tribunal has fixed the notional monthly income of the deceased at Rs.12,000/- for an accident that happened in the year 2016. The deceased was a Powerloom Fitter and was aged 45 years at the time of the accident. In the claim petition, the respondents have pleaded that the deceased was earning Rs.20,000/- per month at the time of the accident. Therefore, after giving due consideration to the year of the accident as well as the avocation of the deceased, this Court is of the considered view that the fixation of the notional monthly income of the deceased at Rs.12,000/- cannot be considered to be excessive as alleged by the Appellant Transport Corporation.

11. The Tribunal has adopted the correct multiplier of 14 since the deceased was aged 45 years at the time of the accident. The Tribunal has also deducted 1/4th towards personal expenses of the deceased which is a correct deduction as the respondents/ claimants are five in number. The Tribunal has awarded a compensation of Rs.18,90,000/- towards loss of income which cannot be considered to be excessive as alleged by the Appellant Transport Corporation.

12. Insofar as the compensation awarded by the Tribunal towards loss of estate, loss of consortium and funeral expenses are concerned, the same cannot be considered to be excessive as it is in accordance with the settled law.

13. The Tribunal has awarded loss of future prospects at 25% after giving due consideration to the age of the deceased as well as his avocation which is a correct assessment and the same is confirmed by this Court.

14. The overall compensation of Rs.19,60,000/- awarded by the Tribunal to the respondents / claimants cannot be considered to be excessive as alleged by the Appellant Transport Corporation.

15. In the result, there is no merit in this Appeal and accordingly this Civil Miscellaneous Appeal is dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petition is closed.

16. The Appellant / Transport Corporation is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of MCOP No.1641 of 2016 on the file of the Motor Accident Claims Tribunal, Presiding Officer, Tirppur, within a period of four 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



directly to the bank account of the respondents / claimants as per the same ratio of apportionment made by the Tribunal through RTGS, within a period of two weeks thereafter.

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Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

ab/vsi2

To

1. The Presiding Officer,
Special Motor Accident Claims Tribunal,
Tirppur.
2. The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.D.Venkatachalam, Advocate SR.No.53075

CMA.No.2866 of 2021 and
C.M.P. No.16480 of 2021

NK(CO)
GMV(25/11/2021)