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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2902 of 2021 &
CMP.No.16641 of 2021

The Managing Director,
Tamilnadu State Transport Corporation,
Periya Milagu Parai,
Trichy District.

...Appellant/Respondent

Vs

1.Nasrin Banu
2.Minor Rijwan
3.Minor Siddhik
(Minors rep. by their mother/1st respondent)
4.Jeidunbee

...Respondents/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, challenging the Judgment and Decree dated 01.03.2021 made in MCOP.NO.52 of 2020 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Namakkal.

For Appellant : Mr.L.Ramanathan

JUDGMENT

This appeal has been filed by the Transport Corporation challenging the award dated 01.03.2021 passed by the Motor Accident Claims Tribunal (Principal District Judge, Namakkal) in MCOP.No.52 of 2020.

2. Heard Mr.L.Ramanathan, learned counsel for the Appellant. Since no adverse orders are going to be passed against the respondents/claimants, notice to the respondents is dispensed with by this court.



3. The Appellant Transport Corporation has challenged the impugned award only on the ground that the Tribunal has erroneously fixed the entire negligence on the part of the bus owned by the Appellant Transport Corporation. They have not questioned the quantum of compensation awarded by the Tribunal.

4. Before the Tribunal, the respondents/claimants have filed twelve documents which were marked as Ex.P1 to Ex.P12 and two witnesses were examined on their side namely the first respondent/claimant, the wife of the deceased as PW1 and an eye-witness to the accident as PW2. On the side of the Appellant Transport Corporation, one witness was examined namely, the driver of the bus which caused the accident as RW1 and no document was filed on their side.

5. The contention of the Appellant Transport Corporation is that the deceased was not wearing a helmet at the time of the accident and therefore, there is a contributory negligence on his part also. However, in the deposition of PW1, the wife of the deceased, she has categorically deposed that the deceased was wearing a helmet at the time of the accident. No contra evidence has been produced by the Appellant Transport Corporation to disprove the contention of PW1.

6. Based on preponderance of probabilities, the Tribunal has rightly fixed the entire negligence on the part of the driver of the bus owned by the Appellant Transport Corporation. Therefore, this Court does not find any merit in the findings given by the Tribunal.

7. In the result, this Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

8. The Appellant Transport Corporation is directed to deposit the amount awarded by the Tribunal together with interest from the date of claim till the date of deposit and cost, after deducting the amount already deposited if any to the credit of MCOP.No.52 of 2020 within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the Tribunal shall transfer the respective share of award amount lying to the credit of MCOP.No.52 of 2020 to the bank account of the respondents 1 & 4/claimants as per the ratio apportioned by the Tribunal through RTGS within a period of one week thereafter. Since the second and third respondents/claimants are minors, their respective share of award amount lying to the credit of MCOP.No.52 of 2020 shall be deposited in any one of the Nationalised Banks till they attain the age of majority and the mother of the minors, the first respondent herein is permitted to withdraw the interest accrued



once in six months for the welfare of the minors. If the minors attain majority, it is open for them to file formal petitions to declare them as major.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
The Principal District Judge,
Namakkal.

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

+lcc to Mr.D.Venkatachalam, Advocate Sr No.52897

C.M.A.No.2902 of 2021

AKII (CO)
PR (18/11/2021)