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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. No.4196 of 2019
and C.M.P. No.23713 of 2019

The Managing Director,
Tamil Nadu State Transport Corporation Madurai Limited,
Madurai Region, Bypass Road,
Madurai 625 010. ..Appellant/2nd Respondent

Vs.

1.P. Rathina Devi ..1st Respondent/Petitioner

2.Dharmaraj ..2nd Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 14.09.2018, made in M.C.O.P. No.212 of 2016, on the file of the Sub Court, (Motor Accident Claims Tribunal), Sathyamangalam.

For Appellant : Mr.D.Venkatachalam

For Respondents: Mr.R.Nalliyappan (For R1)
No appearance (For R2)

J U D G M E N T

The matter is heard through "Video Conferencing".

This Civil Miscellaneous Appeal has been filed by the appellant-Transport Corporation against the judgment and decree dated 14.09.2018, made in M.C.O.P. No.212 of 2016, on the file of the Sub Court, (Motor Accident Claims Tribunal), Sathyamangalam.

2.The appellant is the 2nd respondent in M.C.O.P. No.212 of 2016, on the file of the Sub Court, (Motor Accident Claims Tribunal), Sathyamangalam. The 1st respondent/claimant filed the said claim petition, claiming a sum of Rs.23,00,000/- as compensation for the death of her son viz., P. Muralidharan, who



died in the accident that took place on 05.12.2015.

3. According to the 1st respondent, on the date of accident, when the deceased Muralidharan was driving his Auto bearing Registration No.TN-60-K-9375 along with passengers namely Mariammal, Meenakshi Sundaram and two others at Andipatti to Madurai main road from North to South at the left extreme side of the road, near T.Subbulapuram Vilakku, when the Auto intended to turn towards Andipatti side, driver of a Bus bearing Registration No.TN-58-N-2073 belonging to the appellant-Transport Corporation coming from West to East, drove the same in a rash and negligent manner and dashed on the Auto driven by the deceased and caused the accident. The accident occurred due to negligent driving by driver of the Bus. In the accident, the deceased succumbed to fatal injuries. Hence, the 1st respondent filed claim petition claiming compensation against the 2nd respondent as driver and appellant as owner of the Bus involved in the accident.

4. The 2nd respondent, driver of the Bus, remained exparte before the Tribunal.

5. The appellant-Transport Corporation, filed counter statement and denied all the averments made by the 1st respondent in the claim petition. According to the appellant, on the date of accident, when the Bus belonging to them was driven by the 2nd respondent from Theni to Madurai, the deceased who was driving the Auto in North to South direction, while trying to enter Andipatti, drove the same in a rash and negligent manner, without sounding horn and dashed on the Bus driven by the 2nd respondent and caused the accident. The accident occurred only due to rash and negligent driving by the deceased. At the time of accident, in violation of policy conditions, the deceased has permitted more persons to travel in the Auto and he did not possess valid driving license to ply the vehicle. Hence, for violation of policy conditions, the appellant is not liable to pay compensation to the 1st respondent. In any event, the total compensation claimed by the 1st respondent is excessive and prayed for dismissal of the claim petition.

6. Before the Tribunal, the 1st respondent examined herself as P.W.1, examined one eye witnesses viz., Sekar as P.W.2 and marked 16 documents as Exs.P1 to P16. The appellant examined the 2nd respondent/driver of the Bus involved in the accident as R.W.1, but did not mark any document.

7. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by 2nd respondent, driver of the Bus belonging to the appellant-Transport Corporation and



8.Questioning the quantum of compensation granted by the Tribunal in the award dated 14.09.2018, made in M.C.O.P. No.212 of 2016, the appellant - Transport Corporation has come out with the present appeal.

10. Per contra, the learned counsel appearing for the 1st respondent/claimant contended that at the time of accident, the deceased was an Auto Driver, aged 27 years and was earning a sum of Rs.9,000/- per month. The Tribunal considering Exs.P10 and P11 - Registration Certificate and Permit for the Auto, rightly fixed the monthly income of the deceased as claimed by the 1st respondent and awarded compensation. The amount granted by the Tribunal towards loss of love and affection to the 1st respondent/widowed mother of the deceased is just and reasonable. The total compensation awarded by the Tribunal is not excessive and prayed for dismissal of the appeal.

12. Heard learned counsel appearing for the appellant-Transport Corporation as well as the 1st respondent and perused the materials available on record.

<https://hcservices.ecourts.gov.in/hcservices/>



WEB GATES

Court [Sarla Verma & others vs. Delhi Transport Corporation & another], the correct multiplier applicable is '17'. Considering the age of the deceased, the Tribunal rightly granted 40% enhancement towards future prospects. The deceased was a bachelor at the time of accident. Hence, deducting 50% towards personal expenses of the deceased, the amount awarded by the Tribunal towards loss of dependency is modified to Rs.12,85,200/-{[Rs.9,000/- + Rs.3,600/-(40% of Rs.9,000/-)]x12 x 17 x 1/2}. The Tribunal has excessively awarded a sum of Rs.1,00,000/- towards loss of love and affection. The 1st respondent/mother of the deceased is entitled to only a sum of Rs.40,000/- towards loss of love and affection. The Tribunal failed to award any amount towards loss of estate. Hence, a sum of Rs.15,000/- is awarded towards loss of estate. The amounts granted by the Tribunal under other heads are just and reasonable and hence, the same are confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	17,49,600/-	12,85,200/-	Reduced
2.	Loss of estate	-	15,000/-	Granted
3.	Funeral expenses	15,000/-	15,000/-	Confirmed
4.	Loss of love and affection	1,00,000/-	40,000/-	Reduced
5.	Transportation	5,000/-	5,000/-	Confirmed
	Total	18,69,600/-	13,60,200/-	Reduced by Rs.5,09,400/-

14. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.18,69,600/- is modified to Rs.13,60,200/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant-Transport Corporation is directed to deposit the award amount, now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No.212 of 2016. On such deposit, the 1st respondent is permitted to withdraw the award amount, now determined by this Court, along



with interest and costs, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. The appellant-Transport Corporation is permitted to withdraw the excess amount, lying in the credit of M.C.O.P. No.212 of 2016, if the entire award amount has already been deposited by them. It is made clear that if the 1st respondent has already withdrawn the entire award amount, the appellant/Transport Corporation is not entitled to recover the same from the 1st respondent. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Subordinate Judge,
(Motor Accident Claims Tribunal),
Sathyamangalam.
2. The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.6210

C.M.A. No.4196 of 2019

GMR (CO)
RGA (06/09/2021)