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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.3241 of 2017 and
C.M.P.No.20154 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation, Kumbakonam.

...Appellant

Vs.

Kannattai

...Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.01.2017 made in M.C.O.P.No.690 of 2008 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Perambalur.

For Appellant : Mr.D.Venkatachalam

For Respondent : M/s.R.Rajaramani

J U D G M E N T

This Civil Miscellaneous Appeal has been filed to set aside the award dated 12.01.2017 made in M.C.O.P.No.690 of 2008 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur.

2.The appellant is the respondent in M.C.O.P.No.690 of 2008 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur. The respondent filed the above said claim petition claiming a sum of Rs.5,00,000/- as compensation for the death of one Raju, who died in the accident that occurred on 27.06.2008.

3.According to respondent, on 27.06.2008 at about 11.30 P.M., while the deceased Raja was driving his two wheeler bearing Registration No.TN 46-D-1053 from Thozhudur to Perambalur on the Trichy-Chennai NH45 road and when he was nearing Valikandapuram, a Government bus belonging to appellant-Transport Corporation, bearing registration TN 63-N-0996 which came in the opposite direction was driven by its driver in a rash and negligent manner with hectic speed without blowing horn



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and dashed against the said Raja, as a result of which, he sustained fatal injuries on his head and died on the spot. Therefore, the respondent filed the said claim petition claiming a sum of Rs.5,00,000/- as compensation against the appellant-Transport Corporation.

4.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to appellant-Transport Corporation and directed the appellant to pay a sum of Rs.9,46,000/- as compensation to the respondent.

5.Challenging the negligence as well as quantum of compensation awarded by the Tribunal in the award dated 12.01.2017 made in M.C.O.P.No.690 of 2008, the appellant-Transport Corporation has come out with the present appeal.

6. Though, this Appeal has been filed challenging the liability as well as quantum of compensation awarded by the Tribunal, the learned counsel appearing for the appellant submitted that he restricts his relief only with regard to quantum. He further submitted that the deceased was a Bachelor aged about 24 years at the time of accident and there is only one claimant, who is the mother of the deceased and the Claims Tribunal has fixed the monthly income of the deceased at Rs.6,000/- per month, which is on the higher side. He further contended that as per the decision of the Hon'ble Supreme Court in the case of Sarla Verma & Ors Vs. Delhi Transport Corporation & Another reported in (2009) 6 SCC 121, if the deceased is a bachelor, the deduction towards his personal living expenses would be 50% of his income, but the Tribunal has wrongly deducted 1/3rd towards personal expenses. In any event, the total compensation awarded by the Tribunal at Rs.9,46,000/- is highly excessive and prayed for setting aside the award passed by the Tribunal.

7. The learned counsel for the respondent/claimant submitted that, in case the deceased is a Bachelor who died in an accident leaving behind the widowed mother, as law laid down by the Hon'ble Supreme Court in the case of Sarla Verma & Ors Vs. Delhi Transport Corporation & Another reported in (2009) 6 SCC 121, only 1/3rd can be deducted towards the personal expenses of the deceased. Therefore, the Court below rightly deducted 1/3rd towards personal expenses. He further submitted that the compensation awarded towards other heads are reasonable and not on higher side and therefore there is no merit in the appeal and the same is liable to be dismissed.



7. Heard the learned counsel appearing for the appellant-Transport Corporation and perused the entire materials on record.

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8. From the materials available on record, it appears that the Tribunal fixed a sum of Rs.6,000/- per month and by applying multiplier 18 and after deducting 1/3rd towards personal expenses of the deceased as per the law laid down by the Hon'ble Apex Court in the case of Sarla Verma & Ors Vs. Delhi Transport Corporation & Another reported in (2009) 6 SCC 121, determined the loss of income of the deceased. Since the claimant lost her lovable and affectionate son in her old age, for loss of love and affection, Rs.50,000/- was awarded and a sum of Rs.20,000/- was awarded by the Tribunal towards funeral expenses, Rs.10,000/- for transporting charges, Rs.2,000/- for loss of cloths and belongings at the time of accident and the same are reasonable. The Tribunal considering the entire materials on record, has awarded a sum of Rs.9,46,000/- as compensation to the respondent, which is not excessive warranting interference by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed and a sum of Rs.9,46,000/- awarded by the Tribunal as compensation to the respondent, along with interest and costs is confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount if any already deposited, within a period of twelve weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.690 of 2008 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur. On such deposit, the Tribunal is directed to transfer the entire amount to the respondent/claimant by way of RTGS within a period of three weeks from the date of deposit or the receipt of Bank details from the claimant or application for withdrawal from the claimant, whichever is later. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

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To

1. The Principal District Judge,
Motor Accidents Claims Tribunal,
Perambalur.

2. The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.D.Venkatachalam, Advocate, Sr.23414

C.M.A.No.3241 of 2017

GMI [co]
NSK 15/09/2021