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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

C O R A M

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.NO.914 OF 2017

AND

C.M.P.NO.4542 OF 2017

The Managing Director
Tamil Nadu State Transport Corporation (CBE) Ltd.,
Chennimalai Road, Erode.

...Appellant/Petitioner

Vs.

1.Shanthi
2.Sasikala
3.Moorthy

....Respondents/ Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 17.11.2015 made in M.C.O.P.No.308 of 2013 on the file of the Motor Accident Claims Tribunal, on the file of III Additional District Court, Dharapuram.

For Appellant : Mr.D.Venkatachalam

For Respondents : No Appearance

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal, this Civil Miscellaneous Appeal has been filed by the Transport Corporation, Erode. The appellant is the 2nd respondent/Transport Corporation before the Tribunal.

2. The learned counsel appearing for the appellant/Tamil Nadu State Transport Corporation submitted that RW1-Moorthy who is the driver of the Government bus bearing Registration No.TN-33-2477 deposed in his oral evidence that RW1 is not responsible for the accident and only the deceased Saravanan came and dashed his vehicle on the right side bumper of the bus and caused the accident. This aspect has not been considered properly. The age of the deceased was not proved in the manner known to law.



No document has been filed to prove the age of the deceased. The income of the deceased was also determined at Rs.8,000/- per month, but in this regard, no document has been filed. Therefore, he submitted that without appreciation of the oral and documentary evidence, the liability had been fixed and the quantum of compensation was also awarded by the Tribunal and the same are liable to be set aside.

3. On a perusal of the judgment and decree passed by the Tribunal, it appears that in Ex.P1-First Information Report, it has been stated that the accident had occurred due to the rash and negligent on the part of the driver of the bus. After completion of the investigation, the Investigating Officer filed a charge sheet against the 1st respondent therein, which was marked as Ex.P5. In the said charge sheet, it has been clearly stated that the accident occurred due to the rash and negligent driving on the part of the driver of the bus. In Ex.P2-Observation Mahazar also it is stated that the accident occurred due to the rash and negligent on the part of the driver of the bus.

4. Based on the above said documents, the Tribunal has held that the accident was occurred due to the rash and negligent on the part of the driver of the bus. Therefore, I do not find any error in the judgment passed by the Tribunal and I concur with finding of the Tribunal on the negligence aspect.

5. The Hon'ble Supreme Court in case of Syed Sadiq v. Divisional Manager, United India Insurance reported in [2014 (1) TNMAC 459 (SC)], wherein it was determined the notional income of the deceased Vegetable Vendor, in the absence of any income proof, at Rs.6,500/- for the accident in the year 2008. In the present case, the accident was occurred on 13.01.2013. By way of providing appropriate addition to increase in the cost of living, in any event the deceased would be equated on par with the vegetable vendor, the notional income awarded by the Tribunal at Rs.8,000/- per month appears to be just and reasonable. After proper appreciation of the oral and documentary evidence and taking into law laid down by this Court as well as the Hon'ble Supreme Court in case of Sarla Verma v. Delhi Transport Corporation reported in [2009 (6) SCC 121], the Tribunal determined the income.

6. Hence, I do not find any merit in this appeal and no substance in the submissions made by the learned counsel for the appellant. Hence, this Court is of the considered view that there is no error in the judgment and decree passed by the Tribunal. Thus, the judgment and decree passed by the Tribunal made in M.C.O.P.No.308 of 2013 by order dated 17.11.2015 on the file of the III Additional District Court [Motor Accident Claims



Tribunal, Dharapuram], is hereby confirmed.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msm

To

1. The Motor Accidents Claims Tribunal,
III Additional District Court,
Dharapuram.
2. The Section Officer,
V.R.Section, High Court,
Chennai-104.

Copy To

1. M/s.Shathi
W/o.late Chinnasamy
Neelakatupudur, Sivanmalai Village,
Kangayam Taluk, Tiruppu District.
2. M/s.Sasikala
W/o.Satheshkumar
Neelakatupudur, Sivanmalai Village,
Kangayam Taluk, Tiruppu District.
3. Moorthy,
S/o.Arumugam,
Rakkammapudur, Vadrapatti (P.O)
Arachaldur Via, Erode Dt.

+1cc to Mr.Sivakumar, Advocate, S.R.No.23939

C.M.A.No. 914 of 2017 and
C.M.P.No.4542 of 2017

MG (CO)
PM/26/10/2021