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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2021

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THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.2487 of 2018

and

C.M.P.No.18964 of 2018

Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Rep. By its Managing Director,
Kancheepuram Region,
Kancheepuram.

...Appellant/Respondent

Vs.

1. Gengammal
2. Subramani

...Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 15.03.2018 made in M.C.O.P.No.3048 of 2015 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.2, Small Causes Court Chennai.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

This Appeal has been filed by the Transport Corporation challenging the Award dated 15.03.2019 passed by the Motor Accident Claims Tribunal, Special Sub Court No.2, Small Causes Court, Chennai in M.C.O.P.No.3048 of 2015, directing the Appellant/Transport Corporation to pay the Claimants a sum of Rs.16,91,800/- as compensation for the death of the deceased, who succumbed to the injuries sustained in an accident which occurred on 02.10.2014 involving the bus owned by the Appellant/Transport Corporation. Respondents/Claimants are the dependants of the deceased viz., mother and father.

2. Before the Tribunal, the Respondents/Claimants claimed a sum of Rs. 40,00,000/- as compensation for the death of the deceased. On the side of the Respondents/claimants, P.W.1 to P.W.3 were examined as witnesses and Exs. P1 to P23 were marked before the Tribunal. On the side of the Appellant/Transport



Corporation, R.W.1 & R.W.2 were examined as witnesses and Exs. R1 to R4 were marked.

3. On consideration of the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.16,91,800/- as compensation to the Respondents/Claimants. Details of the compensation awarded by the Tribunal under the impugned Award, are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Loss of pecuniary benefits	16,61,733
Funeral Expenses	15,000.00
Loss of Estate	15,000.00
Total	16,91,733
Rounded off	16,91,800

4. Heard the learned counsel for the parties and perused the material documents available on record.

5. The Appellant has challenged the impugned award on the ground that the Tribunal has failed to consider Ex.P1-F.I.R which has been registered against the deceased. The Claims Tribunal ought not to have fixed the income of the deceased without any valid proof and the compensation awarded towards other heads are also very high and the same needs to be reduced.

6. Insofar as the first contention raised by the Appellant is concerned, though the driver of the Appellant Corporation has lodged a complaint against the deceased and F.I.R.-Ex.P1 has been marked, P.W.2- who is an eye witness to the accident deposed that the accident had occurred only due to the rash and negligent act of the driver of the bus, resulted in death of the deceased. Therefore, the Claims Tribunal considering the evidence of P.W.2 and Ex.P3-Rough Sketch, has rightly fixed the negligence on the part of the driver of the Transport Corporation. Therefore, this Court finds that there is no basis for the Appellant to contend that the accident had occurred only due to the rash and negligent act of the driver of the two wheeler.

7. Insofar as the income of the deceased is concerned, at the time of accident, it was stated that the deceased was a Machine Operator and earning a sum of Rs.15,000/- per month and in support of the same Exs.P6-appointment order of deceased, Ex.P7 & Ex.P22-Pay slips of deceased were marked, wherein it was stated that the salary of the deceased is Rs.11,926.34/- per



month including the conveyance of Rs.1,065/-. Since conveyance cannot be taken as income, the Tribunal has fixed the income at Rs.10,861/- per month towards income of the deceased.

8. Tribunal taking note of the Judgment of Hon'ble Supreme Court in the case of National Insurance Company Ltd., Vs. Pranay Sethi and Others, reported in, 2017 (2) TNMAC 609 (S), has awarded 50% of the actual salary towards future prospects and adding 50% towards future prospects, the Tribunal by considering the Judgment of Hon'ble Apex Court, in the case of Sarla Verma and others Vs. Delhi Transport Corporation and another, reported in (2009) 4 MLJ (SC) 997, deducted 50% towards personal expenses of the deceased, as the deceased was a bacheolor and by adopting multiplier 17 as per the above proposition, the Claims Tribunal has rightly awarded compensation of Rs.16,61,733/- towards loss of dependency which is not on higher side.

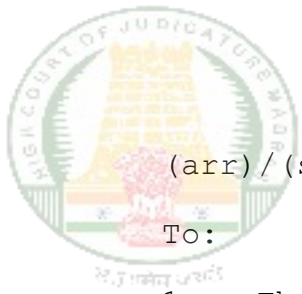
9. Considering the fact that the Claimants lost their only son, the quantum of compensation awarded by the Tribunal to the Respondents/Claimants under various heads, totalling a sum of Rs.16,91,800/-, cannot be considered to be excessive, as alleged by the Appellant/ Transport Corporation. For the foregoing reasons, this Court does not find any merit in this Appeal and accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10. The Appellant/Transport Corporation is directed to deposit the entire amount awarded by the Tribunal together with interest at 7.5% per annum from the date of the Claim Petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P.No.3048 of 2015 on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.2, Small Causes Court Chennai, within a period of eight 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 through RTGS as per their respective shares, apportioned by the Tribunal, within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar



(arr)/(shk)

To:

1. The Motor accident Claims Tribunal,
Special Sub Court No.2,
Small Causes Court,
Chennai.
2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.43112

C.M.A. No.2487 of 2018

NK[co]
NSK 26/11/2021