



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2021

CORAM:

THE HONOURABLE **MRS. JUSTICE T.KRISHNAVALLI**

C.M.A. (MD)No.565 of 2016

and CMP. (MD)No.6627 of 2016

The Managing Director

Tamil Nadu State Transport

Corporation (Kumbakonam)Limited

Karakudi, Sivagangai District.

... Appellant/Respondent

Vs.

1.K.Lakshmi

2.Minor.K.Sridevi

3.MinorK.Srimathi

4.MinorK.Sridhar

... Respondents

(The 2 to 4 minor respondents represented by their mother/natural guardian, the first respondent K.Lakshmi)

PRAYER: This Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 01.07.2013 passed in MCOP.No.30 of 2010 on the file of the Motor Accidents Claims Tribunal/VI Additional District Court, Madurai.

For Appellant

: Mr.P.Prabhakaran

For Respondents

: Mr.R.Selvakumar

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the judgment and award made in MCOP.No.30 of 2010 dated 1st day of July 2013 on the file of the learned VI Additional District Judge, Madurai.

2.Brief facts of the case is that on 05.01.2007, while the husband of the first respondent came in his bike, the bus, which belongs to the appellant corporation, came in a rash and negligent manner and dashed against the husband of the first respondent. Due to the accident, the first respondent's husband died in the spot. Thereafter, the respondents filed a claim petition in MCOP.No.30 of 2010 and the Tribunal awarded 26,60,460/- as compensation. Aggrieved over the same, the appellant / Insurance Company filed the present appeal.

3.The learned counsel for the appellants would submit that the Tribunal has failed to fix the entire negligence on the deceased who riding his motor cycle in drunken mood. The deceased was riding his two wheeler without wearing helmet and the accident was occurred only due to his rash and negligent driving of his two wheeler. The Tribunal had erred in fixing the income in the



absence of any specific proof for the monthly income of the deceased. The tribunal has fixed the monthly income of the deceased as Rs.14756 and added 50% additional income without any basis. Therefore, he would pray for allowing of this appeal.

4.The learned counsel appearing for the respondents would submit that the Tribunal has rightly fixed the compensation and hence, he would pray for dismissal of this appeal.

5.Heard the learned counsel for the appellant and the learned counsel for the respondents and perused the materials available on record.

6.Perusal of record shows that due to the rash and negligent driving of the bus by its Driver, the accident had occurred and the first respondent's husband died on the spot. The Tribunal had rightly fixed the compensation where I do not find any infirmity and the interference of this Court does not warranted.

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

Sd/-

Assistant Registrar(T & P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Motor Accidents Claims Tribunal/
VI Additional District Court, Madurai.

Copy to:

The Section Officer, V.R. Section,
Madurai Bench of Madras High Court, Madurai - 2 Copies
+1 CC to M/s.P.PRABHAKARAN, Advocate SR-4809[F] dated 12/02/2021
C.M.A. (MD)No.565 of 2016
12.02.2021

SVN(CO)

TR(18.05.2021) 2P 5C

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