



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No. 57 of 2022

And

C.M.P.No. 391 of 2022

Tamil Nadu State Transport Corporation
Kumbakonam Division - I Limited.,
Represented by its Managing Director, Railway Station Road
Kumbakonam

... Appellant/
3rd Respondent

Vs

1. Doulat @ Mohamed Gani Beevi
2. Mohamed Manjoor Ali Maricar
3. Mohamed Neina Maricar
4. Minor Ashika
(Rep by her Mother/Next friend
1st Respondent herein)

...Respondents Nos.1 to 4/
Petitioners

5. M.S.Ravikumar (Driver)
6. G.Packrisamy

... 5 & 6 Respondents/
1 & 2 Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the M.V. Act, 1988 against the order dated 22.03.2021 made in M.C.O.P.No. 23 of 2020 on the file of the District Judge, Presiding Officer, Motor Accident Claims Tribunal, Karaikal.

For Appellant

: D.Venkatachalam



J U D G M E N T

Challenge in this Appeal is to the award of the Tribunal granting a sum of Rs.7,42,480/- as compensation for the death of one Mohamed Arief Maraicar in a motor accident that occurred on 1.06.2019.

2. Claiming that the rash and negligent driving on the part of the driver of the bus bearing Registration No. TN-68-N0119, is the cause of the accident and consequent death, the claimants sought for compensation of Rs.16,20,000/-.

3. The claimants would contend that the deceased was earning a sum of Rs.15,000/- per month and he was aged about 65 years at the time of the accident.

4. For establishing the negligence, the claimants relied upon the FIR that was registered against the driver of the bus and the evidence of one Samsudeen who was examined as PW-2.

5. The Tribunal upon consideration of the evidence held that the negligence of the driver of the bus was the cause for the accident. In coming to the conclusion, the Tribunal relied upon the evidence of PW-2 while rejecting the evidence of RW-1 as hearsay. On the quantum, the Tribunal took the monthly notional income of the deceased at Rs.14,562/- based on the Judgment of the Division Bench of this Court in Andal and others Vs. Avinav Kannan and others reported in 2019 (1) TNMAC 54 (DB). Applying the Judgment of the Hon'ble Supreme Court in Sarala Varma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TNMAC 1 (SC), the Tribunal adopted multiplier of '5' and arrived at a loss of dependency at Rs.5,82,480/-. The Tribunal added the conventional damages of Rs.1,60,000/- towards parental consortium to the minor children and loss of consortium for the wife. Thus the Tribunal arrived at a further sum of Rs.7,42,480/-.

6. Mr.D.Venkatachalam, learned counsel appearing for the Transport Corporation would submit that fixation of the income at Rs.14,562/- is on the higher side. As the deceased was aged about 65 years, the Tribunal was not right in taking the notional income at Rs.14,562/-. He would also contend that the Tribunal should have accepted the evidence of RW-1.

7. I am unable to countenance the submissions of the learned counsel for the appellant. The Tribunal has followed the Division Bench Judgement of this Court in fixing the notional income at Rs.14,562/-. The same cannot be termed as erroneous or unacceptable. As regards negligence, the Tribunal has considered the evidence and rejected the evidence of RW-1 as



hearsay. Therefore, I am unable to fault the conclusion of the tribunal on the question of negligence. Hence, this Civil Miscellaneous Appeal fails and it is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

WEB COPY

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vsg

To

1. Presiding Officer
District Court
Motor Accident Claims Tribunal
Karaikal.
2. The Section Officer,
VR Section,
Madras High Court, Chennai.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.4517

CMA No. 57 of 2022
And
C.M.P.No. 391 of 2022

CA(CO)
PM/27/04/2022