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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA NO.99 OF 2022 AND
CMP.NO.635 OF 2022

Tamil Nadu State Transport Corporation,
Kumbakonam,
Rep. by its Managing Director,
Having office at Railway Station New Road,
Kumbakonam Tk & Town,
Thanjavur District.

...Appellant

Vs

1.M.Faritha Begam

2.M.Nijam Moideen

3.Minor Najimudheen
(Rep. by his mother and natural
guardian 1st respondent)

...Respondents

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 06.08.2021 made in MCOP.No.336 of 2017 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Nagapattinam.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Transport Corporation is on appeal terming the award of a sum of Rs.13,59,600/- for the death of one Mohammed Chellathambi in a road accident that occurred on 31.07.2016. According to the claimants, while the deceased was travelled as a pillion rider in a motorcycle bearing registration No.TN51-V-6297 which was driven by his uncle Bakkir Mohammed. The bus belonging to the appellant Transport Corporation bearing registration No.TN68-N-0385 proceeding from Nagapattinam to Rameshwaram driven by its driver, in a rash and negligent manner, on the right side of the road and dashed against the motorcycle. As a result



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of the accident, both the rider as well as the deceased suffered severe injuries and died on the spot. Claiming that the deceased was aged about 44 years at the time of accident and earning about a lakh of rupees per month, the claimants sought for compensation of Rs.50,00,000/-.

2.The said claim was resisted by the Corporation contending that the accident occurred due to the rash and negligent driving of the rider of the motorcycle. It was further claimed that the rider of the motorcycle and insurer of the motorcycle are necessary parties to the original petition. Before the Tribunal, the first claimant and one Mr.Sahul Hameed were examined as PW1 and PW2 and Exs.P1 to P7 were marked. The driver of the bus was examined as RW1. The Tribunal, on a consideration of the evidence on record found that the driver of the bus was responsible for the accident. The Tribunal based its conclusion on negligence on the FIR and the rough sketch that were produced. The Tribunal rightly disbelieved the evidence of the driver of the bus. On quantum, the Tribunal adopted a monthly notional income of Rs.7,650/- applied future prospects of 25%, adopted a multiplier of 14, made a deduction of 1/4th and arrived at a total loss of dependency at Rs.12,09,600/-.

3.Mr.D.Venkatachalam, learned counsel appearing for the Corporation would contend that there were only three dependants and therefore, the Tribunal was not right in deducting 1/4th, it ought to have deducted 1/3rd towards personal expenses. No doubt, the deduction of 1/4th is not in consonance with the dictum of the Hon'ble Supreme Court in the case of National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 MACD 137. However, I find the adoption of Rs.7,650/- per month as income for the accident that occurred in 2016 is too low. If the income is raised and the percentage of deduction is also raised. The result would be the same. I therefore do not see any ground to interfere with the award as the award on the whole is reasonable. Hence, the appeal fails and it is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

vs



To

1.The Motor Accident Claims Tribunal,
Principal District Judge,
Nagapattinam.

2.The Section Officer,
V.R. Section,
Madras High Court, Chennai.

+1cc to M/s.D.Venkatachalam, Advocate Sr.No.6557

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SSN(CO)
RVM(07/03/2022)