



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.1185 of 2021
and
C.M.P.No. 6013 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam.

...Appellant/Respondent

Vs.

1.Sridevi
2.Minor Sashwin
(minor represented by his mother
and natural guardian-Sridevi)
3.Jayaraman
4.Sokkeswari

...Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree dated 26.11.2019 made in M.C.O.P.No.171 of 2016 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Tindivanam.

For Appellant : Ms.P.Rajathi for Mr.D.Raghu

For Respondents : No Appearance

JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

This appeal arises out of the Judgment and Decree dated 26.11.2019 made in M.C.O.P.No.171 of 2016 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Tindivanam.

2.Case of the claimants is that on 04.09.2015 at about 10.50 hours, the deceased-Sridharan and his wife, minor child were traveling in the appellant Transport Corporation Bus bearing Registration No.TN 55 N 0812 from Tindivanam to Villupuram. When the bus was nearing opposite of Tindivanam Police Station, the driver of the said vehicle drove it in a rash and negligent manner and applied sudden break. As a



result, the deceased-Sridharan was thrown out from the bus. Due to which, the deceased sustained head injuries and multiple injuries and died on the spot. Hence, on the allegation that the accident had occurred due to rash and negligent driving of the driver of the appellant Transport Corporation, the claimants laid a claim petition before the Tribunal for compensation of Rs.50 Lakhs.

3.Before the Tribunal, the appellant Transport Corporation contested the case by filing counter and disputed the age, occupation and monthly income of the deceased.

4.To substantiate the case, on the side of the claimant, P.Ws.1 and 2 were examined and Exs.P1 to Ex.P.9 were marked. On the side of the appellant/Transport Corporation, R.Ws.1 and 2 were examined and Ex.R.1 was marked.

5.The Tribunal, after considering the oral and documentary evidence, held that the driver of the appellant Transport Corporation as well as the deceased contributed negligence for the accident and fixed negligence in the ratio of 70:30 and awarded compensation of Rs.22,32,496/- to the claimants. Assailing the award, the appellant Transport Corporation has filed the present appeal.

6.Heard Ms.P.Rajathi, learned counsel appearing for the appellant Transport Corporation and perused the materials available on record.

7.In this appeal, the Tribunal has rightly fixed the negligence upon the driver of the appellant Transport Corporation. This aspect is not challenged and hence we do not propose to elaborate on the issue herein.

8.Though the learned counsel appearing for the appellant/Transport Corporation has contended that the award is on the higher side and it requires reduction, on perusal of the records, we find that the Tribunal, on proper appreciation of the evidence and the salary slip (Ex.P.6), has fixed the monthly income as Rs.18,859/-. The deceased died at the age of 41 years and the Tribunal applying correct multiplier '14' awarded Rs.21,62,496/- towards 'loss of pecuniary benefits', after additions and deductions as per the decision of the Constitution Bench of the Hon'ble Apex Court in the case of National Insurance Co., Ltd., Vs. Pranay Sethi and others. The convention damages of Rs.70,000/- is also proper. The award is a just and reasonable compensation. We find no reason to interfere with the conclusion reached by the Tribunal. This appeal has no merit. Hence, this appeal is liable to be dismissed.

9.In such view of the matter, this Civil Miscellaneous Appeal is dismissed as devoid of merits. The appellant/Transport Corporation is directed to deposit the



entire award amount with interest at the rate of 7.5% per annum, from the date of claim petition, till the date of realization and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit is being made, the major claimants are permitted to withdraw the award amount less the amount already withdrawn, if any, together with proportionate interest and costs. In so far as the minor claimant, the Tribunal is directed to deposit the award amount in any one of the nationalized bank, in cumulative deposit, till he attains majority and the 1st claimant/wife of the deceased being the mother and natural guardian of the minor child, she is entitled to get the accrued interest amount once in three months, directly from the Bank. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal
II Additional District Court, Tindivanam.

+2ccs to Mr.R.Sivamoorthy, Advocate SR. No. 11436
+1cc to Mr.D.Raghu, Advocate SR. No.10566

C.M.A.No.1185 of 2021

GPL (CO)
PR (21/04/2022)