



C.M.A.No.2174 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2022

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN**

**C.M.A.No.2174 of 2022
and C.M.P.No.16838 of 2022**

The Managing Director
Tamil Nadu State Transport Corporation Ltd.
No.37, Mettupalayam Road
Coimbatore – 641 043.

.. Appellant

Vs.

1.V.Meignanavel
2.M.Saraswathy
3.T.Kasimayan

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 01.02.2018 made in M.C.O.P.No.820 of 2014 on the file of Motor Accident Claims Tribunal, Special Sub Court, Coimbatore.

For Appellant : Mr.K.J.Sivakumar



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For R1 & R2 : Mr.I.Periasamy

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J U D G M E N T

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

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation against the award dated 01.02.2018 made in M.C.O.P.No.820 of 2014 on the file of Motor Accident Claims Tribunal, Special Sub Court, Coimbatore.

2.The appellant/Transport Corporation is 2nd respondent in M.C.O.P.No.820 of 2014 on the file of Motor Accident Claims Tribunal, Special Sub Court, Coimbatore. The respondents 1 & 2 filed the said claim petition claiming a sum of Rs.35,00,000/- as compensation for the death of their son viz., V.M.Balakumar, who died in the accident that took place on 18.12.2013.

3.According to the respondents 1 & 2, on the date of accident, i.e., on 18.12.2013 at about 7.30 p.m., while the deceased Balakumar was riding in his Honda Unicon motor cycle bearing Registration No.TN-38-BJ-4920 via



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Kanuvai to reach Luna Nagar, on Thadagam to Coimbatore Road, from North to South direction, the driver of the bus bearing Registration No.TN-38-N-2469, who was coming in the opposite direction, drove the same in a rash and negligent manner, hit against the motorcycle from behind and caused the accident. In the accident, right front wheel of the bus ran over said Balakumar, due to which, he died on the spot. Therefore, the respondents 1 & 2 filed the above claim petition claiming compensation for the death of their son as against the 3rd respondent, driver of the bus and appellant/Transport Corporation.

4.The 3rd respondent, driver of the bus remained exparte before the Tribunal.

5.The appellant/Transport Corporation filed counter statement denying the averments made in the claim petition and stated that at the time of accident, the driver of the bus after alighting and boarding the passengers and after getting whistle from the conductor, drove the same carefully and slowly by keeping to his left. The rider of the motorcycle, deceased Balakumar, who



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was coming in the opposite direction, overtook another vehicle at high speed, lost his balance and dashed against the right side of the bus and invited the accident. The deceased Balakumar alone is solely responsible for the accident. Mere filing of F.I.R. against the driver of the bus is not a substantial piece of evidence to come to a conclusion that the accident has occurred only due to rash and negligent driving by the driver of the bus. Therefore, the appellant/Transport Corporation is not liable to pay any compensation to the respondents 1 & 2. In any event, the compensation claimed by the respondents 1 & 2 is excessive and prayed for dismissal of the claim petition.

6.Before the Tribunal, one M.Rajendran, was examined as P.W.1, one Madhuran Kristina, HR Manager of the Company, where the deceased was working at the time of accident, was examined as P.W.2, one Mohankumar, eye-witness to the accident was examined as P.W.3 and 26 documents were marked as Exs.P1 to P26. The appellant/Transport Corporation did not let in any oral and documentary evidence.



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7.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation and directed the appellant to pay a sum of Rs.30,54,000/- as compensation to the respondents 1 & 2.

8.Against the said award dated 01.02.2018 made in M.C.O.P.No.820 of 2014, the appellant/Transport Corporation has come out with the present appeal.

9.The learned counsel appearing for the appellant/Transport Corporation contended that the accident has occurred only due to rash and negligent riding by the deceased Balakumar. The Tribunal ought to have fixed negligence on the part of the deceased Balakumar, rider of the motorcycle. The Tribunal cannot fix negligence on the driver of the bus relying on F.I.R. Mere registering of F.I.R. against the driver of the bus cannot be a ground for fixing negligence on him. The learned counsel further contended that the Tribunal failed to note that the respondents 1 & 2 did not file any valid



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document to prove the age, avocation and income of the deceased. In the absence of any evidence, the Tribunal erroneously fixed Rs.20,000/- as monthly income of the deceased, which is excessive. The amounts awarded by the Tribunal under different heads are excessive and prayed for setting aside the award of the Tribunal.

10.The learned counsel appearing for the respondents 1 & 2 made his submissions in support of the award passed by the Tribunal and submitted that the compensation awarded by the Tribunal is not excessive and prayed for dismissal of the appeal.

11.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents 1 & 2 and perused the entire materials on record.

12.From the materials on record, it is seen that it is the case of the respondents 1 & 2 that on the date of accident, i.e., on 18.12.2013 at about 7.30 p.m., while the deceased Balakumar was riding in his motorcycle via



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Kanuvai to reach Luna Nagar, on Thadagam to Coimbatore Road, the 3rd

respondent, driver of the bus belonging to the appellant/Transport Corporation, who was coming in the opposite direction, drove the same in a rash and negligent manner, hit against the motorcycle rode by the deceased, due to which, right front wheel of the bus ran over said Balakumar and caused the accident. To substantiate this contention, they examined one Mohankumar, eye-witness to the accident as P.W.3, who deposed about the manner of accident and marked rough sketch as Ex.P3 and F.I.R. as Ex.P1, which was registered against the 3rd respondent, driver of the bus. The Tribunal considering Ex.P3/rough sketch, held that the rider of the motorcycle rode the same in proper direction while the driver of the bus, who was coming in the opposite direction, drove the same on his extreme right side of the road in a rash and negligent manner, dashed against the motorcycle and caused the accident. The appellant/Transport Corporation did not examine the driver of the bus, 3rd respondent or has not let in any contra evidence to disprove the evidence of P.W.1 to P.W.3. The Tribunal considering the evidence of P.W.1, P.W.3, Ex.P1/F.I.R., Ex.P3/rough sketch and in the absence of any contra evidence on the part of the appellant/Transport Corporation, held that the



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accident has occurred due to rash and negligent driving by the 3rd respondent, driver of the bus belonging to the appellant/Transport Corporation. There is no error in the said finding of the Tribunal warranting interference by this Court.

13.As far as quantum of compensation is concerned, it is the case of the respondents 1 & 2 that at the time of accident, the deceased Balakumar was working as Associate Programmer Analyst in AES Technologies (India) Pvt. Limited, Coimbatore and was earning a sum of Rs.20,000/- per month. To substantiate the said contention, the respondents 1 & 2 examined one Madhuram Kristina, HR Manager of the Company, in which, the deceased was working at the time of accident, as P.W.2 and marked pay slip for the month of December 2013 as Ex.P25. The Tribunal considering the evidence of P.W.2 and Ex.P25, fixed a sum of Rs.20,000/- as monthly income of the deceased. The appellant/Transport Corporation did not let in any contra evidence to disprove the documents filed by the respondents 1 & 2. The deceased was aged 23 years at the time of accident as per Ex.P4/post-mortem certificate. The Tribunal, following the judgments of the Hon'ble Apex Court



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reported in **2017 (2) TN MAC 609 (SC) [National Insurance Co. Ltd., Vs.**

Pranay Sethi and others] and **2009 (2) TNMAC 1 SC (Sarla Verma and**

others vs. Delhi Transport Corporation and another), has rightly granted

40% enhancement towards future prospects and applied multiplier '18'. The

deceased died as a bachelor and the Tribunal has rightly deducted 50%

towards personal expenses. Thus, the Tribunal awarded a sum of

Rs.30,24,000/- towards loss of dependancy, which is not excessive. In

addition to that, the Tribunal granted a sum of Rs.15,000/- each towards

funeral expenses and loss of estate, which are just and proper. The

respondents 1 & 2, who are parents of the deceased, lost their son at his

young age. The Tribunal has not awarded any compensation towards loss of

love & affection. The total compensation awarded by the Tribunal is also not

excessive warranting interference by this Court.

14. In the result, this Civil Miscellaneous Appeal is dismissed and the

sum of Rs.30,54,000/- awarded by the Tribunal as compensation to the

respondents 1 & 2 along with interest and costs is confirmed. The

appellant/Transport Corporation is directed to deposit the entire amount



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awarded by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 & 2 are permitted to withdraw their respective share of the award amount, as per the apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. Consequently, connected Miscellaneous Petition is closed. No costs.

(V.M.V.,J) (S.M.,J)
12.10.2022

Index : Yes / No
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To

1.The Special Subordinate Judge
Motor Accident Claims Tribunal
Coimbatore.

2.The Section Officer
VR Section
High Court
Madras.



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and
SUNDER MOHAN,J.**

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