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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.916 of 2022

&

C.M.P.No.6815 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation
Kumbakonam Limited,
Railway Station New Road,
Kumbakonam Taluk,
Thanjavur District.

...Appellant/Respondent

Vs

1.Kasthuri

2.Sakthivel

3.Vengatesan

... Respondents 1 to 3/Claimants 1 to 3

Kannan (Died)

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree dated 20.11.2021 made in M.C.O.P.No.6141 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.2, Small Causes Court, Chennai.

For Appellant

: Mr.L.Ramanathan

JUDGEMENT

The Tamil Nadu State Transport Corporation has filed the appeal challenging the award passed by the Motor Accident Claims Tribunal, Special Sub Court II, Small Causes Court, Chennai in M.C.O.P.No.6141 of 2016 on the ground that the award is highly excessive. The facts in brief are as follows.

2. The respondents 1 to 3 herein are the legal heirs of one Pachaiyappan who had died in a road accident on 31.07.2016 at



about 11 PM. It is the case of the respondents that on the said date, the deceased was waiting to cross road at Achirupakkam National Highways junction opposite to Sanjeevi Tea Shop, at that time, the bus belonging to the appellant Corporation bearing Registration No.TN 68 N 0574 proceeding from Chennai to Karaikal was being driven by the driver in a rash and negligent manner. On account of the rash driving, the bus hit the said Pachaiyappan, who sustained multiple injuries all over his body.

3. The said Pachaiyappan was rushed to Melmaruvathur Hospital and thereafter admitted to SRM Hospital. Once again he was admitted to Government General Hospital, Chennai on 01.08.2016, where he succumbed to the injuries on 02.08.2016. Therefore, the claimants had come forward to file the above claim petition.

4. The Transport Corporation in their counter denied that the accident was the result of rash driving of the driver but on the contrary submitted that the said Pachaiyappan had suddenly crossed the road and was also in the intoxicated state. Therefore, the Transport Corporation cannot be held responsible for the accident.

5. The Tribunal below on considering the evidence came to the conclusion that the accident was solely on account of the rash and negligent driving by R.W.1, who is the driver of the appellant vehicle.

6. The Tribunal had relied on the evidence of R.W.1 to come to the above conclusion since he had admitted that the Department had initiated Departmental proceedings against him for the accident that has been caused by him. That apart, he has not challenged the FIR which had placed the entire onus on him. Therefore, the Tribunal had ultimately awarded a compensation of a sum of Rs.14,37,000/-. A notional income of Rs.10,000/- was fixed as a monthly income of the deceased and taking into consideration his age, future prospects of 10% were added and multiplier of 12 adopted. That apart, amounts were paid under the head of Loss of Consortium, Loss of Estate and Funeral Expenses.

7. It is challenging this quantum of compensation that the appellant Transport Corporation is before this Court.

8. Heard the learned counsel for the appellant and perused the records.

9. Though the respondents had pleaded that the deceased was running a Hotel, they had not produced the proof of the same. Therefore, the Tribunal has adopted a notional income of just a



sum of Rs.10,000/- considering the year of the accident and the age of the deceased. The notional income arrived at by the Tribunal below cannot be found fault with. That apart, the future prospects has also been calculated taking into account the age of the deceased. The future prospects and multiplier was adopted as per the Judgement of the Hon'ble Supreme Court reported in 2017 (2) TNMAC 609 - National Insurance Company Vs. Pranay Sethi & others.

10. I see no reason to set aside the award, which is fair and reasonable. In these circumstances, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
Special Sub Court No.2,
Small Causes Court,
Chennai.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.26722

C.M.A.No.916 of 2022

RSV (CO)
SU (18/05/2022)