

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

CMA.No.1119 of 2022
and
C.M.P.No.8223 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation,
No.12, Ramakrishna Road,
Salem-636007.

... Appellant/Respondent

Vs

1. Elakkiya
2. Minor. Kalanithi
3. Minor. Yazhini
Manickam (Died)
4. Sathiyabama
(Minors Rep. by their NF/Mother)

... Respondents/Petitioners

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order dated 27.01.2022 made in MCOP No.1832 of 2015 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem.

For Petitioners : Mr. D.Venkatachalam

JUDGEMENT

The Transport Corporation has filed the above appeal challenging the order passed by the Motor Accident Claims Tribunal (Special District Court) Salem, in M.C.O.P. No.1832 of 2015. The Transport Corporation has sought to challenge the award both on the ground of negligence as well as on the ground of quantum. The brief facts preceeding the filing of this appeal are as follows:

2. The respondents had filed M.C.O.P. No.1832 of 2015 on the file of the Motor Accident Claims Tribunal (Special District Court) Salem, claiming compensation of a sum of Rs.50,00,000/- for the death of one Arun Kumar, husband of the 1st respondent, father of respondents 2 and 3 and son of the 4th respondent in a road accident on 18.04.2015. It is the case of the respondents

that on 18.04.2015, at about 10.15 hours the deceased Arun Kumar was riding a Hero Hondo Motor cycle from Salem to Attur, as he neared the Vaisya College Bus Stop, the bus belonging to the appellant herein driven in a rash and negligent manner and at an uncontrolled speed had dashed against the deceased causing grievous injuries to the said Arun Kumar. The said Arun Kumar later succumbed to his injuries by night. The petitioners being his legal representatives had filed the above petition seeking compensation.

3. The appellant/Transport Corporation had filed a counter denying the liability to pay compensation.

4. The Tribunal below after considering the evidence both oral and documentary in detail held negligence on the part of the driver of the appellant's bus and adopted a notional income of Rs.15,000/- to which 40% was added as future prospects and arrived at a total compensation of Rs.32,83,000/-. It is this award that is sought to be challenged.

5. Heard the learned counsel for the appellant.

6. The Tribunal below has considered the evidences on record and taking into account the FIR as well as the evidence of R.W.1 held that it was only the driver of the appellant/Transport Corporation's bus who was negligent and had caused the accident. The appellant has not been able to let in any evidence to contest the above claim. On the contrary, the FIR has been lodged against the driver of the Transport Corporation bus and he has been charge sheeted. Therefore, the finding of negligence has to be confirmed. As regards the quantum, the Court below has taken into account the fact that no documents had been filed and adopting a fair notional income had arrived at a loss of income of a sum of Rs.32,13,000/- to which the conventional amounts under the head of love and affection, funeral expenses, and loss of estate has been added. It is also seen that the Tribunal has not awarded filial consortium to the minor children.

7. In these circumstances, I see no reason to interfere with the order passed by the Tribunal below, consequently, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VII)

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Sub Assistant Registrar

To

1. Motor Accident Claims Tribunal,
Special District Judge, Salem
2. The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to M/s.D.Venkatachalam, Advocate, S.R.No.34715

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PMK(CO)
UMA(22/07/2022)