



C.M.A.No.1117 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.1117 of 2022

&

C.M.P.No.8214 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam

...Appellant

Vs

1.Banupriya

2.Minor. Suji

3.Minor. Swathi

4.Minor. Pradhosh

5.Mahalakshmi

... Respondents



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Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Decree and Judgement dated 26.02.2021 made in M.C.O.P.No.255 of 2017 on the file of the Motor Accident Claims Tribunal, Principal District and Sessions Judge, Thiruvarur.

For Appellant : Mr.L.Ramanathan

JUDGEMENT

The Transport Corporation has filed an appeal challenging the award passed in M.C.O.P.No.255 of 2017 by the learned Principal District and Sessions Judge, Tiruvarur. The challenge is both on the ground of negligence and quantum. The facts in brief are as follows.

2. The respondents have filed a Claim Petition in M.C.O.P.No.255 of 2017. The respondents are the wife, children and



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mother of the deceased Sivaprakasam. It is the case of the respondents that on 10.09.2015, when the deceased Sivaprakasam was travelling in his motor cycle in a South-North direction, the appellant bus going in the same direction and driven in a rash and negligent manner hit the motor cycle of the deceased Sivaprakasam, as a result the said Sivaprakasam died on the spot.

3. The appellant transport corporation however denied the negligence on the part of their driver and contended that the deceased Sivaprakasam was responsible for the accident and the Tribunal ought to have fixed contributory negligence on him. The appellant had further questioned the quantum of compensation claimed.

4. The Tribunal below fixed the entire negligence on the part of the driver of the bus belonging to the appellant transport corporation and proceeded to award a sum of Rs.15,07,500/- along with interest at



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7.5% per annum as compensation. The Tribunal has considered the
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oral and documentary evidence and came to the above conclusion.

5. It is challenging this order that the appellant transport corporation is before this Court.

6. The learned counsel for the appellant would submit that the Tribunal has relied on Ex.P.1, First Information Report and also Ex.P.2, Post-mortem certificate to come to the conclusion that the accident was only on account of the negligence on the part of the driver of the appellant transport corporation. The Tribunal has worked out a notional monthly income of Rs.7,500/- to which future prospects had been added taking into consideration the Judgement of the Supreme Court reported in **2017 (2) TNMAC 609 – National Insurance Company Vs. Pranay Sethi & others.** Ultimately, the Tribunal has awarded a sum of Rs.15,07,500/- as compensation to the respondents /



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claimants. Aggrieved by this award, the appellant transport corporation is before this Court.

7. Heard the learned Counsel for the appellant transport corporation and perused the records.

8. The Tribunal below has rightly considered the FIR and the evidence of the eye witness to come to the conclusion that the accident had taken place only on account of the negligence on the part of the bus driver. The bus has hit the deceased from rear, which would go to show the speed at which the appellant's vehicle was travelling. The appellant transport corporation has not been able to produce any evidence to show that the driver of the bus was not rash and negligent and responsible for the accident.



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9. Therefore, taking into consideration the FIR and the evidence, it has been rightly held by the Tribunal below that the accident had occurred only on account of the negligence of the driver of the appellant transport corporation. The quantum of compensation, particularly, the notional income calculated is very much in keeping with the various judicial pronouncements and I see no reason to disagree with the same.

10. In the result, the Civil Miscellaneous Appeal stands dismissed. The appellant transport corporation is directed to deposit the award amount along with interest and costs, less the amount already deposited within a period of six weeks from the date of receipt of a copy of this Judgement, to the credit of M.C.O.P.No.255 of 2017. On such deposit, the major claimants shall withdraw their share of compensation, after adjusting the amount, if any, already withdrawn, by filing necessary application before the Tribunal. The share of the



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minor claimants, namely, claimants 2 to 4 are directed to be deposited in any one of the Nationalised Banks till they attain majority. On such deposit, the 1st claimant being the mother of the minor claimants is permitted to withdraw the accrued interest once in every three months for the welfare of the minor claimants. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

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Index : Yes/No

Speaking order/non-speaking order

To,

1.The Motor Accident Claims Tribunal,
Principal District and Sessions Judge,
Thiruvavarur.



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P.T.ASHA, J.,

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