

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.1265 of 2022

&

C.M.P.No.9227 of 2022

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

...Appellant/Respondent

Vs

Selvaraj (Died)

Amended as per order dated 23.02.2018
made in I.A.No.55 of 2018.

1.Malarkodi

2.Prabu

3.Sangeetha

4.Santhi

5.Ananthaprasath

... Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Decree and Judgement dated 12.11.2021 made in M.C.O.P.No.198 of 2017 on the file of the Motor Accident Claims Tribunal, Sub Court, Jayankondam.

For Appellant : Mr.L.Ramanathan.

JUDGEMENT

The Transport Corporation has challenged the award passed by Motor Accidents Claims Tribunal, Subordinate Court, Jayankondam in M.C.O.P.No.198 of 2017 on the ground that the deceased was squarely responsible for the accident and that the quantum of compensation was high.

2. One Selvaraj, a passenger in the appellant's bus had filed the above Claim Petition claiming compensation of a sum of Rs.20,00,000/-. He had contended that on 22.03.2015, he was

traveling from Kattumanarkudi to Jayankondam in the appellant's bus. At about 8.15 AM when the bus was stopped at Anna Statue bus stop and while the said Selvaraj was alighting, the driver of bus suddenly started the bus, as a result of which, he had fallen and sustained injuries. The said Selvaraj therefore filed the above Claim Petition.

3. Pending the proceedings, the said Selvaraj had passed away and his legal heirs were brought on record. The appellant transport corporation had contended that the deceased Selvaraj was traveling on the front foot board and before the bus stopped, he had jumped out from the bus not heeding to the warnings of the conductor and it was only his hastiness that has resulted in the accident.

4. The Tribunal below had considered both the oral as well as documentary evidence and come to the conclusion that the accident was only on account of negligence on the part of the driver of the appellant's bus and proceeded to award a sum of Rs.10,29,043/-. The Tribunal below had adopted a notional income of Rs.12,000/- since the claimants were unable to substantiate their contention that the deceased Selvaraj was earning a sum of Rs.15,000/- per month. Future prospects have also taken into account commensurate to the age of the deceased Selavaraj.

5. Challenging the award, both on the grounds of negligence and quantum, this appeal has been filed by the Transport Corporation.

6. Heard the learned counsel for the appellant Transport Corporation and perused the records.

7. A perusal of the order and the papers would indicate that the deceased Selvaraj was attempting to alight at the bus stop and without waiting for him to get off, the driver of the bus had started the bus. The Tribunal below has taken note of the oral evidence of the driver of the appellant's bus, who was examined as R.W.1 and also the fact that he has been charge sheeted in Cr.No.122 of 2015. Ultimately, the Tribunal had held that the accident had occurred only due to the negligence on the part of the driver of the Transport Corporation. The quantum has also been reasonably arrived at. The appellant Transport Corporation has not made out any case for interfering with this well considered award.

8. Accordingly, the Civil Miscellaneous Appeal is 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.198 of 2017. On such deposit, the claimants are permitted to withdraw the award amount, after adjusting the amount, if any, already withdrawn, by filing necessary application before the Tribunal. Consequently, connected Civil Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
Sub Court,
Jayankondam.

+1cc to Mr.L.Ramanathan, Advocate, S.R.No.35761

C.M.A.No.1265 of 2022

PMK(CO)
SB(18/07/2022)