



C.M.A.No.2359 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.M.A.No.2359 of 2022

and

C.M.P.No.18414 of 2022

The Regional Manager,
Andhra Pradesh State Road Transport Corporation,
Sri Kalahasti Depot, Sri Kalahasti, Tirupathi.

...Appellant

Vs.

1.Yoga Badhri

2.Bala Venkatraman

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 07.10.2021 passed in M.C.O.P.No.1097 of 2017 on the file of the Motor Accident Claims Tribunal (I Additional District and Sessions Judge) at Vellore.

For Appellant : Mr.T.Thiyagarajan

For Respondents : Mr.M.Sivakumar



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J U D G M E N T

WEB COPY (Judgment of the Court was made by R.SUBRAMANIAN, J.)

The Transport Corporation is on appeal aggrieved by the award of the Motor Accidents Claims Tribunal, Vellore granting a sum of Rs.23,68,000/- as compensation to the claimants for the death of their daughter who was aged about 22 years at the time of the accident.

2. According to the claimants, while they were travelling in an auto along with their daughter on 20.07.2017 at about 2.30 p.m from Tirupati to Kalahasti, the bus belonging to the appellant Transport Corporation bearing Registration No.AP-03-TB-3157 which came in the opposite direction, driven by its driver in a rash and negligent manner, dashed against the auto. As a result the auto capsized, resulting in the death of their daughter.

3. Contending that their daughter was pursuing Master of Business Administration and she had a very bright future, the claimants sought for Rs.70,00,000/- as compensation. The Corporation resisted the



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claim contending that the accident did not occur in the manner suggested by the claimants. It also chose to blame the auto driver for negligence and the consequent accident. It was also claimed that the driver of the Corporation bus had lodged a complaint with the Kalahasti Rural Police Station. The quantum claimed was also termed as exorbitant.

4. Before the Tribunal, the 1st claimant was examined as PW1 and Exs.P1 to P10 were marked. The driver of the bus was examined as RW1. No documentary evidence was produced on the side of the Corporation.

5. The Tribunal on a consideration of the entire evidence on record found that the FIR was laid against the driver of the bus. The Tribunal also faulted the Corporation for not having produced the FIR alleged to have been lodged by the driver of the bus. The Tribunal took into account the fact that the driver of the bus was prosecuted for offences under Section 279, 337 and 304(A) of IPC. The Tribunal also took into account Ex.P4, the Accident Information Report which shows the nature of accident and the damages caused to both the vehicles. On the above evidence, the



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Tribunal concluded that the accident was caused due to the negligence of the driver of the bus.

6. On the quantum, the Tribunal found that the deceased being a student it has to assume notional income. The Tribunal assumed notional income of Rs.15,000/- per month adding 40% towards future prospects, deducting 50% for personal expenses and applying multiplier 18, the Tribunal arrived at the total loss of dependency at Rs.22,68,000/-. The Tribunal awarded Rs.80,000/- towards loss of love and affection to the petitioners who are the parents of the deceased, Rs.5,000/- towards Transportation and Rs.15,000/- towards funeral expenses.

7. We have heard Mr.T.Thiyagarajan, learned counsel appearing for the appellant and Mr.M.Sivakumar, learned counsel appearing for the respondents.

8. Mr.T.Thiyagarajan, learned counsel appearing for the appellant Transport Corporation would submit that by the very nature of the accident



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it could be seen that there was some negligence on the part of the driver of the auto also. He would further point out that assumption of Rs.15,000/- as income for a girl who was studying in the year 2017 is on the higher side.

9. Contending contra Mr.M.Sivakumar, learned counsel appearing for the respondents would submit that though the Corporation had claimed that its the driver had lodged a complaint, no such complaint was produced. The fact that the driver was charge sheeted for the offences under Sections 279, 334 and 304(A) of IPC by itself demonstrate that the accident occurred due to the negligence of the driver of the bus. He would also point out that the assumption of Rs.15,000/- as monthly income is just and reasonable, pointing out that the last grade servant in Government service was earning more than that as on 2017.

10. We have considered the rival submissions. Though the Corporation has examined the driver of the bus, his testimony by itself would not be sufficient to absolve the Corporation on the liability, particularly on the ground of negligence. When the 1st claimant had lodged



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a complaint with the police at about 4.30 p.m on the date of accident, contents of the FIR will have to be normally believed, unless it is shown that the same is an after thought. The accident is stated to have taken place at 2.30 p.m and the FIR is lodged at 4.30 p.m. Though it is claimed that the driver of the bus lodged a complaint, no such complaint has been produced. We are therefore left with the FIR and the consequent criminal prosecution to decide the issue. PW1 was a co-passenger along with the deceased at the time of the accident and his account of the accident has to be believed unless there is a very strong contra evidence. We do not find such evidence. We are unable to conclude that the Tribunal was wrong in its finding regarding negligence.

11. Adverting to the quantum of compensation though Mr.T.Thiyagarajan, would submit that assumption of Rs.15,000/- as notional income is on the higher side, we are unable to countenance his submission because as rightly pointed out by Mr.M.Sivakumar even the salary of last grade servant in the Government was more than Rs.15,000/- at the relevant date viz., 20.07.2017. The other additions and deductions adopted by the



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Tribunal are in accordance with the directions of the Hon'ble Supreme Court. We therefore see no reason to tinker with the quantum of compensation awarded by the Tribunal.

12. In view of the above, the appeal fails and it is accordingly **dismissed**. It is seen that the Corporation has deposited 50% compensation to the credit of the Motor Accident Claims Tribunal and there is a direction to deposit the amount in the Bank. Now that the appeal is disposed of, the claimants will be entitled to withdraw the compensation already deposited and the Corporation will deposit the remaining amount within a period of twelve weeks from the date of receipt of the copy of the order and on such deposit, the claimants will be entitled to withdraw the said amount also. No costs.

(R.S.M.,J.) (S.S.K.,J.)
23.12.2022

dsa

Index :No
Internet :Yes
Speaking order

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To:-

The Motor Accident Claims Tribunal,
I Additional District and Sessions Judge,
Vellore.



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R.SUBRAMANIAN, J.
and
SATHI KUMAR SUKUMARA KURUP, J.

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