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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.3619 of 2021

and

C.M.P.No.21171 of 2021

The Managing Director,
Tamil Nadu Transport Corporation Ltd.,
Villupuram Division,
Villupuram.

...Appellant/Respondent

Vs.

1.Jhansi Rani
2.Preethi
3.Selvan (Minor)
(Minor represented by his Mother and Natural Guardian
Jhansi Rani, Wife of A.Kumaresan)
4.T.M.Aiyadurai
5.A.Vasantha

...Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree dated 09.02.2021 made in M.C.O.P.No.3833 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Judge-II, Small Causes Court at Chennai.

For Appellant: Mr.G.Saravana Kumar
for Mr.S.Mishra Sathya Seeman

JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

This appeal arises out of the Judgment and Decree dated 09.02.2021 made in M.C.O.P.No.3833 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Judge-II, Small Causes Court at Chennai.

2.The case of the claimants is that on 30.01.2016, when the deceased was riding the Motor Cycle bearing Registration



No.TN 20 BW 0756, near Thiruvallur, Vengidanallur, the State Transport Corporation Bus bearing Registration No.TN 21 N 1454, which was driven from Chennai to Thirupathi, in the opposite direction, dashed against the deceased. In the impact, the deceased died on the spot. At the time of death, the deceased was aged only 39 years and he was the sole breadwinner of the family. It was alleged that the accident had taken place due to the rash and negligent driving of the driver of the appellant Transport Corporation bus, the claimants laid a petition, claiming compensation of Rs.51,00,000/-.

3.The appellant Transport Corporation filed their counter disputing the manner of accident, age, avocation and income of the deceased and its liability to pay the compensation. Further, in the counter, it has been contended that the driver of the appellant drove the vehicle slowly, but the deceased rode his motorcycle in a rash and negligent manner and invited the accident. It was also contended that the claim amount is excessive and exorbitant.

4.Before the Tribunal, on the side of the claimants, P.Ws.1 to 3 were examined and Exs.P1 to Ex.P.12 were marked. On the side of the appellant/Transport Corporation, R.W.1-Karthikeyan, Driver of the Bus was examined and no document was marked.

5.The Tribunal, after considering the oral and documentary evidence, held that the driver of the appellant bus was responsible for the accident and awarded compensation of Rs.21,20,000/- to the claimants. Against the award, the appellant Transport Corporation has filed the present appeal.

6.Heard Mr.G.Saravana Kumar, learned counsel appearing for the appellant Transport Corporation and perused the materials available on record.

7.The learned counsel appearing for the appellant/Transport Corporation has contended that the Tribunal has failed to note that there is negligence on the part of the deceased. Further, the award is on the higher side and it requires reduction. Monthly income of the deceased - Rs.14,000/- including the future prospectus fixed by the Tribunal is not supported with valid documents. Though it has been stated that the deceased was doing real estate business, there is no proof with regard to the same. Therefore, he prays to reduce the monthly income of the deceased.



8. Perusal of records reveal that the Tribunal, on proper appreciation of evidence of First Information Report (Ex.P.2), found that the accident occurred due to the rash and negligent driving of the driver of the appellant Transport Corporation Bus. With regard to compensation, the Tribunal considering the evidence of P.W.1 and considering the age of the claimants fixed the monthly income and adopted correct multiplier by following the decision in Sarala Verma and Others Vs. Delhi Transport Corporation and another reported in 2009 TN MAC 1, and awarded a just and reasonable compensation. Further, the quantum of compensation under remaining heads fixed by the Tribunal are reasonable. We find no reason to interfere with the conclusion reached by the Tribunal. This appeal has no merit. Hence, this appeal is liable to be dismissed.

9. In such view of the matter, this Civil Miscellaneous Appeal is dismissed as devoid of merits. The appellant/Tamil Nadu Transport Corporation Ltd., is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit is being made, the major claimants are permitted to withdraw the award amount as apportioned by the Tribunal, less the amount already withdrawn, if any, together with proportionate interest and costs. Further, the Tribunal is directed to deposit the share of the minor claimant in any one of the nationalized bank, as fixed deposit under the Cumulative Deposit Scheme, till the minor attains the age of major and hand over the fixed deposit certificate to the mother of the minor claimant. Till such time, the interest accrued thereon shall be withdrawn by the first claimant/wife of the deceased, once in three months. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal

மதுரை The Special Sub Judge-II, Small Causes Court at Chennai.

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Copy to

The Section Officer
V.R.Section,
Madras High Court,
Chennai.

+1 CC to Mr.V. Gopalsamy, Advocate sr 372

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and
C.M.P.No.21171 of 2021

GPL(CO)
SP(16/03/2022)