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CMA.No.2787 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2022

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CMA.No.2787 of 2022
and C.M.P.No.21691 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
No.12, Ramakrishna Road,
Salem – 636 007.

..Appellant

Vs.

1.Kamsala
2.Boomathi
3.Poovelu
4.Dharman
5.Kanakammal

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, to set aside the judgment and decree passed in MCOP.No.74 of 2014 on 30.03.2022 by Motor Accidents Claims Tribunal, Krishnagiri, Additional District Court, Krishnagiri.

For Appellant : Mr.D.Nitin

ORDER

The Civil Miscellaneous Appeal is filed as against the judgment and decree dated 30.03.2022 passed in MCOP.No.74 of 2014 on the file of the



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Motor Accident Claims Tribunal, Krishnagiri, Additional District Court,

Krishnagiri, thereby awarded compensation of Rs.29,902.50/-.

2. The appellant is the respondent in the claim petition filed by the respondents herein.

3. On 17.01.2014, when the deceased was waiting on the Upparapatti Bus stop to return to Kandhili, at about 07.15 hours a TNSTC bus bearing Reg.No.TN-30-N-0797 driven by its driver, stopped the bus to alight the passengers and after the passengers got down from the bus, the deceased got into the bus. At that time, before the deceased fully got into the bus, the driver of the bus moved the same and as such, he fell down and rear wheel of the bus ran over him thereby he sustained grievous injuries on his head and legs and he was taken to hospital. Thereafter, he was referred for further treatment to the Salem Multi Special Hospital and in spite of treatment he died. On the death of the deceased, the respondents, being the legal heirs, filed a claim petition.

4. In order to prove their case, they had examined PW1 and PW2 and marked Exs.P1 to 17 and on the side of the appellant RW1 was examined and no document was marked.



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5. On perusal of oral and documentary evidence, the Tribunal found that only on the rash and negligent driving of the appellants bus driver, the accident had occurred, in which, the deceased died. Therefore, the appellant is liable to pay the compensation. Aggrieved by the same, the present appeal.

6. The learned counsel for the appellant would submit that there was contributory negligence on the part of the deceased as well as the driver of the bus. Therefore, the Tribunal ought to have awarded compensation of 50% against the appellant. He would further submit that no eye witness was examined by the claimants in order to prove their case.

7. On perusal of records revealed that the wife of the deceased was examined as PW1, the son-in-law of the deceased was examined as PW2. Admittedly, the deceased was waiting for the bus to go to Kandhili from Upparapatti. The driver of the appellant Corporation had driven the bus bearing Reg.No.TN-30-N-0797 and stopped in the Upparapatti Bus stop. After the passengers got down from the bus when the deceased getting into the bus, the driver of the bus had moved the bus, without noticing that the deceased was about to board the bus. Therefore, he fell down and the rear wheel of the bus



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ran over him. Due to which, he sustained grievous injuries and he was taken to Uthangarai Government Hospital and thereafter he was referred to Salem Multi Special Hospital for further treatment. However, he died.

8. The evidence of PW1 and PW2 are very clear and cogent that only due to rash and negligent driving of the driver of the bus, the accident had occurred. Hence, the Tribunal rightly awarded the compensation payable by the appellant. This Court finds no infirmity or illegality in the order passed by the Tribunal.

9. Accordingly, the civil miscellaneous appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.12.2022

Speaking/Non-speaking order
Index : Yes/No
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To

The Motor Accidents Claims Tribunal,
Krishnagiri.



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G.K.ILANTHIRAIYAN.J.

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