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C.M.A.No.1990 of 2023
and C.M.P.No.19290 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

C.M.A.No.1990 of 2023
and C.M.P.No.19290 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore) Division I,
37, Mettupalayam Road,
Coimbatore – 641 043.

... Appellant

Versus

1.Marimuthu
2.Vinoth Kumar

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 04.08.2022 passed in M.C.O.P.No.2519 of 2018, on the file of the Exclusive Motor Accident Claims Tribunal, Tirupur.

For Appellant	: Mr.M.Murali Vinodh
For Respondents	: Mr.Ma.P.Thangavel

JUDGMENT

This appeal has been filed by the appellant/Transport Corporation challenging the compensation awarded by the Tribunal in M.C.O.P.No.2519 of 2018, dated 04.08.2022.



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2.The claim petition was filed stating that on 14.06.2018 at about 11.45 p.m., the bus bearing Regn No.TN 43 N 0565, was driven by its driver in a rash and negligent manner and overturned; that due to which, the respondent's mother who travelled in the said bus sustained grievous injuries and succumbed to the injuries and thus the respondents are entitled for compensation.

3.The appellant/Transport Corporation filed a counter denying all the averments made in the claim petition and stated the accident took place because of heavy rain and not due to the negligence of the driver of the bus and hence, the appellant was not liable to pay compensation to the respondents and prayed for dismissal of the claim petition.

4.Before the Tribunal, the respondents examined two witnesses and marked Ex.P.1 to Ex.P.4 on their side. On behalf of the appellant, neither witness nor document was marked.



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5.The Tribunal after considering the oral and documentary evidence, awarded a sum of Rs.7,91,000/- as compensation to the respondents, payable by the appellant.

6.Aggrieved over the award passed by the Tribunal, the appellant filed the present appeal challenging the negligence as well as quantum of compensation.

7.The learned Counsel for the appellant submitted that the quantum of compensation award by the Tribunal is excessive; that the Tribunal had erroneously fixed the age of the deceased as 48 in the absence of any document to prove the age; that the Tribunal had fixed higher notional income of Rs.9000/- without any basis and hence, prayed reduction of compensation amount.

8.The learned counsel for the respondent per contra submitted that the Tribunal fixed the age of the deceased based on the post-mortem certificate, which cannot be faulted. Further, the notional income fixed



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by the Tribunal is meagre and hence the appeal seeking reduction of compensation is not maintainable and prayed for dismissal of the appeal.

9.Though the appellant raised a ground with regard to negligence, considering the manner in which accident took place, the learned counsel for the appellant was unable to point out any error in fixing the negligence on the part of the driver of the bus. Therefore, the only question involved in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable?

10.On perusal of the records, it is seen that the respondents claimed that the deceased was 40 years old. The Tribunal had taken the age of the deceased as 48 years based on the post-mortem certificate. In the absence of any other evidence to prove the age of the deceased, the Tribunal was right in taking the age mentioned in the post-mortem certificate for the purpose of computing loss of income. Therefore, the said finding cannot be faulted. Similarly, this Court finds that the notional income fixed by the Tribunal cannot be faulted and hence there is no merit in the instant appeal.



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11. With the above observations, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal is confirmed together with interest at 7.5% per annum from the date of petition till the date of deposit. The appellant/Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit, the respondents are permitted to withdraw their respective shares of the award amount as per the apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount already withdrawn, if any. No costs. Consequently, connected miscellaneous petition is closed.

28.08.2023

rst

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To:

1. The Exclusive Motor Vehicle Accident Tribunal,
Tirupur.

2. The Section Officer,



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VR Section,
High Court, Madras.



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SUNDER MOHAN, J.

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