



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.08.2023

CORAM:
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.No.1976 of 2023
and C.M.P.No.19175 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Trichy Region, Periyamilaguparai, Trichy - 1 ... Appellant

Vs

1.S.Kumari
2.S.Gowthami
3.S.Sathish
4.S.Deenathayalan (Minor)
(Represented by his mother and natural
guardian S.Kumari) ... Respondents

PRAYER : The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 12.04.2022 in MCOP.No.2691 of 2014 on the file of the Motor Accident Claims Tribunal, V - Court of Small Causes, Chennai.

For Appellant : Mr.M.Murali Vinodh



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The Civil Miscellaneous Appeal is filed by the appellant/Transport Corporation challenging the finding with regard to the negligence and the quantum of compensation awarded by the Tribunal in its judgment and decree dated 12.04.2022 in MCOP.No.2691 of 2014 on the file of the Motor Accident Claims Tribunal, V - Court of Small Causes, Chennai.

2. The respondents are the claimants in MCOP.No.2691 of 2014 on the file of the Motor Accident Claims Tribunal, V - Court of Small Causes, Chennai. They filed the claim petition claiming a sum of Rs.40,00,000/- as compensation for the death of one Settu in the accident that took place on 14.09.2013.

3. According to the respondents, on 14.09.2013 at about 15.00 hours, while the deceased was riding his two wheeler bearing Registration No.TN-18-K-4217 at Vandavasi to Kancheepuram Road, nearing 'B'Erikarai, the driver of the bus belonging to the appellant/Transport Corporation bearing Registration No.TN-45-N-3164 came in the opposite direction in a rash and negligent manner



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and dashed against the two wheeler of the deceased, as a result of which the deceased sustained greivous multiple injuries all over the body and subsequently died.

4. The appellant/Insurance Company resisted the claim petition stating that the accident took place only due to the rash and negligent riding of the deceased since he attempted to over take the bus and hit against the bus belonging to the appellant/Transport Corporation and hence, the appellant/Transport Corporation is not liable to pay the compensation and that in any event, the compensation claimed by the respondents is excessive and prayed for dismissal of the claim petition.

5. Before the Tribunal, the first respondent examined herself as P.W.1 and an eye witness as P.W.2 and marked seventeen documents as Exs.P1 to P18. On the side of the appellant/Transport Corporation, the driver of the bus was examined as R.W.1 and no document was marked.



6. The Tribunal, after considering the pleadings, oral and documentary evidence held that the accident took place only due to the rash and negligent the act of the driver of the appellant/Transport Corporation and directed the appellant/Transport Corporation to pay a sum of Rs.14,48,800/- as compensation to the respondents. Aggrieved over the said award, the appellant/Transport Corporation has preferred the instant appeal.

7. The learned counsel for the appellant/Transport Corporation submitted that award of compensation is excessive. Though, the appellant has challenged the finding on negligence in the grounds of appeal, the learned counsel is unable to point out any infirmity as regards to the negligence. The learned counsel further submitted that in the absence of any proof, the Tribunal ought not have fixed Rs.11,000/- as monthly notional income of the deceased. Hence, he prayed for allowing this appeal.

8. Heard the learned counsel appearing for the appellant/Transport Corporation and perused all the materials available on record before this Court.



9. This Court finds that the Tribunal had held that the accident took place due to the negligence of the bus driver based on the evidence of P.W.2, eye witness to the occurrence. The Tribunal disbelieved the evidence of R.W.1, the driver of the offending vehicle. The learned counsel for the appellant/Transport Corporation, as stated earlier, was unable to point out any infirmity in the said finding and hence the finding with regard to negligence is confirmed.

10. As regards compensation, the only point raised by the learned counsel for the appellant/Transport Corporation is that the monthly notional income fixed by the Tribunal at Rs.11,000/- is excessive. Considering the age of the deceased, the year of accident, his avocation, this Court is of the view that there is no infirmity in the finding of the Tribunal. Therefore, no interference is called for.

11. In the result, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.14,48,800/- awarded by the Tribunal as compensation to the respondents along with interest and costs is confirmed. Therefore, the appellant/ Transport Corporation is



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directed to deposit the entire amount of the award along with interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents are permitted to withdraw his respective share of the award amount as per the apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn. Consequently, connected Miscellaneous Petition is closed. No costs.

25.08.2023

Index: Yes/No
Internet: Yes/No
Speaking order: Yes/ No
gba

To

1.The Court of Small Causes - V,
Motor Accident Claims Tribunal,
Chennai.

2.The Section Officer
VR Section

High Court of Madras, Chennai – 600 104.



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SUNDER MOHAN,J.

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