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C.M.A.No.9 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.9 of 2012

And

M.P.No.1 of 2012

The Divisional Manager,
Tamil Nadu State Transport Corporation Ltd.,
Head Office,
Milaguparai,
Trichy – 1.

... Appellant

Vs.

1.Latha
2.Minor Suresh Babu
3.Minor Sudha
(Minor 2 and 3 represented by their
mother and next friend Latha)

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award made in M.C.O.P.No.314 of 2004 dated 12.02.2010 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur.

For Appellant : Mr.Murali Vinodh
For Respondents : NRN



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J U D G M E N T

The respondent Transport Corporation before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed seeking to set aside the order dated 12.02.2010 passed by the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur, in M.C.O.P.No.314 of 2004.

2.The brief facts of the case is that on 30.06.2003 at about 15.30 hours when the deceased Sukumar was riding a Hero Honda Motor Cycle bearing Registration No.TN.45R 2278 from West to East on the left side of the Road at Samayapuram Bazar Street, the driver of the Transport Corporation bus bearing Registration No.TN 45-N 0959 came from North to South from the Cross Road to Main Road at Samayapuram Bazar Street in a rash and negligent manner and dashed against the deceased, due to which, the deceased sustained injuries all over the body and was taken to Government Hospital, Trichy and was admitted as in-patient, however, he died.

3.Thereafter, the dependants of the deceased Sukumar/ respondents filed claim petition before the Motor Accidents Claims



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Tribunal, claiming compensation of Rs.10 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.5,22,400/- as compensation to the claimants along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization and cost and directed the appellant Transport Corporation to deposit the compensation. Aggrieved by the same, the appellant Transport Corporation has filed this appeal.

4.The learned counsel appearing for the appellant submitted that at the time of death the deceased was working as Selection Grade Conductor and after deductions from his salary, he was receiving a sum of Rs.3,700/- as salary per month, however, the Tribunal fixed the monthly income of the deceased as Rs.4,800/- and deducted a sum of Rs.1,600/- for his personal expenses and awarded a sum of Rs.4,22,400/- for loss of earnings is not sustainable one and the amount of a sum of Rs.20,000/- awarded for loss of love and affection, a sum of Rs.20,000/- awarded for loss of consortium for the first respondent is also highly excessive.

5.Heard the learned counsel appearing for the appellant. Though



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the appeal has been filed during the year 2012, till date, the appellant has not taken any steps to serve notice on the respondents. Considering the pendency of the appeal, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

6.Admittedly, on 30.06.2003 at about 15.30 hours when the deceased Sukumar was riding a Motor Cycle from West to East on the left side of the Road at Samayapuram Bazar Street, the driver of the Transport Corporation bus came from North to South from the Cross Road to Main Road at Samayapuram Bazar Street in a rash and negligent manner and dashed against the deceased, due to which, the deceased sustained injuries all over the body and was taken to Government Hospital, Trichy and was admitted as in-patient and thereafter he died.

7.Thereafter, the dependants of the deceased Sukumar/ respondents filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.10 Lakhs. After adjudication, the Motor Accidents Claims Tribunal, though the salary of the deceased



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was proved before the Tribunal, the Tribunal fixed the monthly income of the deceased as Rs.4,800/- and deducted a sum of Rs.1,600/- for his personal expenses and awarded a sum of Rs.4,22,400/- for loss of earnings, which is just and reasonable. The amount awarded under the other heads also in the opinion of this Court is just and reasonable. Hence, this Court is not inclined to interfere with the impugned award.

8.The civil miscellaneous appeal stands dismissed. The award and decree passed in M.C.O.P.No.314 of 2004, dated 12.02.2010 by the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur, is confirmed.

9.The appellant/ Transport Corporation is directed to deposit the award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the first respondent is permitted to withdraw her share as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal. The respondents 2 and 3 are permitted to withdraw their respective shares as apportioned by



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the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal and on production of necessary proof with regard to their majority. If the claimants 2 and 3/ respondents 2 and 3 are still minors, their shares shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until they attain majority and the interest derived from out of the said share of the minors shall be paid to the first claimant/ mother every quarter to be utilized for the welfare of the said minors.

10.The civil miscellaneous appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

13.10.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
Principal District Judge,
Perambalur.

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M.DHANDAPANI,J.
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