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C.M.A.No.986 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.986 of 2015

And

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation (Salem),
Regional Office at Bharathipuram
Dharmapuri – 5.

... Appellant

Vs.

1.Kulanthai
2.Madhan Kumar
3.Maithili

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 21.01.2013 made in M.C.O.P.No.647 of 2011 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Krishnagiri and be pleased to dismiss the claim as against the appellant.

For Appellant : Mr.Murali Vinod
For Respondents : No Appearance

J U D G M E N T

The respondent Transport Corporation before the Motor



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Accidents Claims Tribunal is the appellant herein. This appeal has been filed seeking to set aside the judgment and decree dated 21.01.2013 passed by the Motor Accidents Claims Tribunal, Principal District Judge, Krishnagiri, in M.C.O.P.No.647 of 2011.

2.The brief facts of the case is that on 19.08.2010, at about 6.40a.m., the deceased Gunasekari was travelling in a bus bearing Registration No.TN 29-N-1430 belonging to the appellant from Panamarathupatti to Uthangarai. The driver of the bus stopped the bus next to Rountana near bus stand and near Padmanaban Hospital at Uthangarai for alighting the passengers. The deceased tried to get down from the bus, however, the driver started the bus, due to which the deceased fell down and the rear side of the bus ran over her body and she died on the way to Hospital.

3.Thereafter, the dependants of the deceased Gunasekari/ respondents filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.10 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.4,98,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization and proportionate costs and directed the appellant



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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 the appellant has filed this appeal questioning the negligence and quantum of compensation awarded by the Tribunal. The learned counsel further submitted that the deceased was negligently alighting from the bus, however, the Tribunal has fastened the entire liability on the appellant which is not sustainable.

5.The learned counsel appearing for the appellant further submitted that at the time of death, the deceased was aged 45 years and without any proof, the Tribunal fixed the notional monthly income of the deceased at Rs.4,500/- and awarded a sum of Rs.4,68,000/- for loss of income by adopting multiplier method and the amount awarded under the other heads are also highly excessive.

6.Heard the learned counsel appearing for the appellant. The appeal is of the year 2015. Though the respondents have entered appearance through counsel, today when the matter is taken up for consideration, there is no representation for the respondents.



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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.

7. Admittedly, on 19.08.2010, at about 6.40 a.m., the deceased Gunasekari was travelling in a bus belonging to the appellant Corporation from Panamarathupatti to Uthangarai and the driver of the bus stopped the bus next to Rountana near bus stand and near Padmanaban Hospital at Uthangarai for alighting the passengers. The deceased tried to get down from the bus, however, without noticing the same, the driver of the bus started the bus, due to which, the deceased fell down and the rear side of the bus ran over her body. In order to disprove the same no witness was examined by the appellant. Hence the Tribunal has rightly fixed the negligence on the driver of the bus, which warrants no interference.

8. This is a case of fatal accident that happened in the year 2010. At the relevant point of time, the Hon'ble Apex Court in Syed Sadiq case fixed Rs.6,500/- as the notional income of the vegetable vendor. However, the Tribunal has fixed only a sum of Rs.4,500/- as the notional monthly income of the deceased and after deducting 1/3



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for her personal expenses, awarded a sum of 4,68,000/- for loss of income by adopting multiplier method, which is just and reasonable.

9.The amount awarded under the other heads namely, loss of consortium for the first respondent – Rs.10,000/-, love and affection for the respondents 2 and 3 – Rs.10,000/-, funeral expenses – Rs.10,000/-, are also just and reasonable.

10.The civil miscellaneous appeal stands dismissed. The judgment and decree dated 21.01.2013 passed by the Motor Accidents Claims Tribunal, Principal District Judge, Krishnagiri, in M.C.O.P.No.647 of 2011, is confirmed.

11.The appellant/ Transport Corporation is directed to deposit the entire 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 claimants/ respondents are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal.



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M.DHANDAPANI,J.
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12.The civil miscellaneous appeal is dismissed. No costs.

Consequently, the connected miscellaneous petition is closed.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

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

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