



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.12.2023

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.683 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Bharathipuram, Dharmapuri. ... Appellant

Vs

1. R.Sennammal
2. R.Kokila
3. P.Kaveriyammal ... Respondents

Civil Miscellaneous Appeal filed under Article 173 of Motor Vehicles Act 1988, to set aside the judgment and decree dated 10.07.2019 made in MCOP.No.837 of 2008 on the file of the Motor Accidents Claims Tribunal/Additional District Court, Krishnagiri.

For Appellant : Ms.Rajathi
For Respondents : Mr.Mukund R.Pandian RR1 to 3

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking to quash the judgment and decree dated 10.07.2019 made in MCOP.No.837 of 2008 on the file of the Motor Accidents Claims Tribunal/Additional District Court, Krishnagiri.



deceased Jeevith proceeded in a hero honda Splendor Motor Cycle bearing Registration No.TN 24 AK 2234 along with one Siranjeevi as pillion rider, the deceased drove the vehicle, in a rash and negligent manner, at that time, the appellant Corporation Bus bearing Reg. No.TN 29 N 1820 driven by its driver, dashed on the back side of the bus. Due to the impact, the deceased sustained fatal injuries and died on the spot. Thereafter, the dependent of the deceased, who is the mother, sister and grandmother, have filed a claim petition before the Tribunal claiming a sum of Rs.50,00,000/- as compensation.

3. Before the Tribunal, during trial, in order to prove his case, the appellant has examined himself as P.W.1 and P.W.2 and marked as many as 9 documents viz., Exs.P1 to P9. On the side of the respondents, one witness has examined and marked two documents.

4. After analyzing the oral and documentary evidences and considering the pleadings made by both the parties, the Tribunal has come to the conclusion that the accident had taken place due to the rash and negligent driving of the driver of the car. Therefore, the Tribunal has awarded a sum of Rs.14,55,800/- as compensation to the claimants.



5. Challenging the quantum of compensation awarded by the Tribunal, the appellant has come forward with this appeal before this Court.

6. Learned counsel for the appellant submitted that at the time of the death, age of the deceased is 19 years old and he was driving his vehicle in a rash and negligent manner and dashed rear side of the bus. Thereby, he lost his life. Though the FIR has been registered as against the driver of the bus. Mere registration of the FIR is not sufficient to hold the negligence on the part of the driver of the bus. However, the Tribunal has erroneously arrived at a conclusion and fixed the liability as against the appellant Transport Corporation, which is not sustainable one. Further at the time of the death, the age of the deceased is 19 years and no income proof has filed before the Tribunal and at the time of accident, the deceased has no valid driving license. Without producing the license and income proof, the Tribunal has fixed the compensation which is highly excessive. Therefore, the award passed by the Tribunal is liable to be set aside and the appeal has to be allowed.

7. The learned counsel for the respondents submitted that the deceased was working as two wheeler and four wheeler mechanic and he was earning more than Rs.15,000/- per month. The Tribunal has rightly



assessed the issue and awarded the compensation, which is just and reasonable and the same does not warrant any interference.

8. Heard the learned counsel for the appellant as well as the respondents and perused the available materials on record before this Court.

9. Admittedly, the rider of the motor cycle, who is the deceased, was riding his vehicle behind the appellant bus. It is alleged that the driver of the bus stopped the bus without any signal. Thereby, the rider of the motor cycle dashed rear side of the bus and lost his life. It is equally undisputed fact that the appellant registered a case against the driver of bus. The Transport Corporation has also suspended the driver for a period of one month for the accident. The Tribunal has elaborately considered the matter and fixed negligence on the part of the driver of the appellant bus, which cannot be interfered with.

10. Considering the age of the deceased and the accident had occurred in the year 2018, the Tribunal has fixed the monthly income at Rs.9000/- by following the judgment passed by the Hon'ble Apex court in the case of Syed Shadi, which is perfectly in order, The other heads awarded by the Tribunal is just and reasonable. In view of the same, the appeal filed by the appellant



is misconceived and the same is liable to be dismissed.

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11.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant is directed to deposit the entire amount awarded by the Tribunal along with interest and costs, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw the compensation as awarded by the Tribunal along with interest and costs, less the amount, if any, already withdrawn, by filing an appropriate application before the Court concerned.

15.12.2023

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Index : Yes/no

Internet : Yes/no

Speaking Order/Non speaking order

To

The Motor Accidents Claims Tribunal/Additional District Court, Krishnagiri.



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M.DHANDAPANI.,J.

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