



C.M.A.No.421 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.No.421 of 2022

and C.M.P.No.2935 of 2022

The Managing Director,

The Tamil Nadu State Transport Corporation (Ltd)

Ramakrishna Road, Salem,

Regional Office at Dharmapuri.

...Appellant

Vs.

1.Mani

2.Karpagam

3.Madhu

4.Poongavanam

...Respondents

PRAYER : The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 12.02.2021 in M.C.O.P.No.166 of 2020 on the file of the Motor Accident Claims Tribunal, Special District Judge, Krishnagiri.

For Appellant : Mr.D.Nithin

For Respondents : No appearance



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J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation challenging the award dated 12.02.2021 in M.C.O.P.No.166 of 2020 on the file of the Motor Accident Claims Tribunal, Special District Judge, Krishnagiri.

2.The respondents herein filed the claim petition claiming a sum of Rs.10,00,000/- as compensation for the death of one Jadaya Gounder, who died in the accident that took place on 14.09.2011. According to the respondents, on the date of accident i.e., on 26.12.2017 at 5.15 a.m., while the deceased was walking in the extreme left side mud portion of Kaveripattinam to Dharmapuri N.H.Road. a bus bearing registration No.TN 29 N 2255 belonging to the appellant came from the opposite direction in a rash and negligent manner and dashed against the deceased. In the accident, the deceased sustained fatal injuries and died on the spot. Hence, they were entitled to a claim of Rs.10,00,000/-.

3.The appellant/Transport Corporation filed a counter statement denying the averments made by the respondents and contended that the driver of the bus



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was not responsible for the accident. The accident occurred due to negligence of the deceased and hence, the deceased is solely responsible for the accident. Therefore, the appellant was not liable to pay any compensation to the respondents. The appellant had also denied the age, avocation and income of the deceased and stated that in any event, the compensation claimed by the respondents is excessive and prayed for dismissal of the claim petition.

4.Before the Tribunal, the respondents examined two witnesses as P.W.1 and P.W.2 and marked five documents as Exs.P1 to P5. The appellant/Transport Corporation did not let in any oral or documentary evidence.

5.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation and directed the appellant to pay a sum of Rs.5,48,000/- as compensation to the respondents.



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6. Against the said award dated 12.02.2021 in M.C.O.P.No.166 of 2020 granting compensation to the respondents, the appellant/Transport Corporation has come out with the present appeal.

7. The learned counsel for the appellant submitted that the appeal is filed only against the quantum awarded by the Tribunal and there is no dispute with regard to the negligence. As regards quantum, the learned counsel submitted that the claim petition has been filed by four persons and the fourth petitioner is the grandson of the deceased and he cannot be considered as dependent of the deceased. The Tribunal ought not to have deducted 1/3rd instead of 1/4th towards personal expenses. The learned counsel was unable to assail the award of compensation under other heads.

8. Though notice has been served on the respondents, none have entered appearance on behalf of the respondents.

9. This Court on perusal of the records and on hearing the submissions made by the learned counsel finds that the Tribunal has deducted 1/4th towards



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personal expenses of the deceased treating all the four respondents as dependents of the deceased. According to the learned counsel for the appellant, the grandson namely the fourth respondent cannot be treated as dependent of the deceased. The Tribunal found that the mother of the fourth respondent /daughter of the deceased was no more and the fourth respondent was living along with the deceased. The Tribunal has come to the said conclusion from the evidence of P.W.1. The appellant has not let in any contra evidence to disbelieve the evidence of P.W.1. Hence this Court is of the view that the finding of the Tribunal holding the fourth respondent as a dependent of the deceased cannot be faulted. In such circumstances, since there are four dependents to the deceased, the deduction of 1/4th towards personal expenses is in order. Therefore, this Court finds that the award passed by the Tribunal is just and reasonable and there is no reason to interfere with the award passed by the Tribunal.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.5,48,000/- awarded by the Tribunal as compensation to the respondents along with interest and costs is confirmed. The appellant/



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Transport Corporation is directed to deposit the entire award amount along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents are permitted to withdraw their respective share of the award amount, on the basis of 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.

14.07.2023

Index: Yes/No
Internet: Yes/No
vkr

To

- 1.The Motor Accident Claims Tribunal,
Special District Judge, Krishnagiri.
- 2.The Section Officer
VR Section, High Court of Madras.



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SUNDER MOHAN,J.

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