



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

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THE HONOURABLE MR.JUSTICE K.RAJASEKAR

C.M.A.No.2367 of 2017.

and

C.M.P.No.12700 of 2017

The Managing Director,
Tamilnadu State Transport Corporation,
Villupuram.

... Appellant

Vs

1. Jaya
2. Minor Deepa
3. Minor Prabha
4. Lakshmi
5. Sankagan

... Respondents

(Minor 2 & 3 are represented by their Mother/next guardian 1st respondent Jaya)

Prayer: This Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 09.12.2014 made in MCOP No.2207 of 2011 on the file of the Motor Accident Claims Tribunal, Salem, (Special District & Session Court, Salem).

For Appellant : M/s.K.J.Sivakumar

For Respondents : M/s.S.S.Santhosakumar



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JUDGMENT

This Civil Miscellaneous Appeal is filed by the Transport Corporation challenging the liability fixed in the award passed in MCOP No.2207 of 2011 on the file of the Motor Accident Claims Tribunal, Salem, (Special District & Session Court, Salem) dated 09.12.2014.

2. The parties are referred to hereunder according to status and ranking before the Tribunal.

3. The claimants herein are the dependants of the deceased Murugesan, who died in the road accident, taken place on 26.11.2011 at about 05.20 p.m. The deceased was driving his two wheeler bearing Registration No.TN 28 1920 on the karumanthurai to Maniyarpalayam Main Road near Pudur Primary Agricultural School, at that time respondent's bus bearing Regn.No.TN 32 N 2980 came in the same direction in uncontrollable speed and dashed behind the deceased and caused the accident. Due to the sudden impact, the deceased sustained grievous injuries



all over the body and died on the spot. The dependants of the deceased have filed claim petition before the Tribunal claiming compensation of Rs.25,00,000/- under Section 166 of Motor Vehicles Act.

4. The Transport corporation has filed counter affidavit and contended that the accident was taken place due to the negligent driving of the deceased and claim made is also on the higher side and prayed to dismiss the claim.

5. Based on the evidence placed on the records, the Tribunal in Point No.1 has held that the negligent driving of the driver of the transport corporation is responsible for the accident and the Tribunal in Point No.2 has quantified the quantum of compensation and awarded a sum of Rs. 7,48,920/- as compensation for the death of the deceased. Aggrieved over the award of the compensation, the Transport Corporation has preferred this Civil Miscellaneous Appeal.

6. Learned counsel for the appellant submits that the manner in which the accident had taken place is sufficient to show that the driver of the bus



has drove the bus cautiously and the deceased had driven the vehicle in a rash and negligent manner and hit on the rear side of the bus while overtaking another vehicle which caused the accident and succumbed to death. This aspect was not properly considered by the Tribunal and prays to set aside the finding of the Tribunal that the driver of the bus is responsible for the accident. Hence prays to set aside the award.

7. The respondents/claimants have not filed any appeal or cross objection for enhancement of compensation.

8. I have considered by the submissions made by the learned counsel for the appellant.

9. In this case, PW.2eyewitness to the occurrence has stated that on 26.11.2011 at about 05.00 P.M., while he was standing near the School on the Karumanthurai to Maniyarpalayam Main Raod at that time a bus bearing Regn.No. TN 32 N 2980 came in the road in high speed and hit on the two wheeler driven by the deceased and caused death of the deceased. To disprove this evidence, the driver of the bus was also examined as R.W.1



and he has stated that he has driven the bus slowly by observing the traffic rules and regulations while the bus reached near Echangadu Puddur, at that time the two wheeler was attempting to overtake the bus, since there was a drizzling of rain and mud, the control of the two wheeler was lost resulting in accident and deceased sustained injuries all over the body and succumbed. This evidence of RW.1 was not accepted by the Tribunal and it relied on the fact that FIR was immediately registered against the driver of the bus. The Tribunal has accepted the case of the claimants as more probable than the evidence of Driver of the bus. It is also recorded by the Tribunal that there was no damage to the bus, whereas the two wheeler was damaged on the left side bumpers. This Court finds no perversity in such finding of the Tribunal. In the said circumstances, this Court confirms the finding of the Tribunal that the Driver of the bus is responsible for the accident. There is no challenge made regarding the quantum of compensation, hence this Court has not considered the issue of quantum.

10. In view of the discussions made above, there is no merits in the Appeal filed by the Transport Corporation and the same is liable to be dismissed.



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11. In the result, this Civil Miscellaneous Petition is dismissed and the award passed by the Tribunal is hereby confirmed. Appellant/ Transport Corporation is hereby directed to deposit the award sum of Rs.7,48,920/- together with interest at the rate of 7.5% per annum from the date of receipt of copy of this order, less the amount, if any already deposited. On such deposit, the claimant are entitled to withdraw the same by making appropriate application and the apportionment of the Tribunal is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes/No

19.09.2023

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To

1. The Motor Accident Claims Tribunal,
Salem, (Special District & Session Court, Salem).
2. The Section Officer,
VR Section, Madras High Court.



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K.RAJASEKAR, J.

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