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CMA No. 1900 / 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 1900 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram.

... Appellant

Versus

1. Ravi

2. Radhika

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P. No. 42 of 2018 dated 25.08.2021 on the file of the Motor Accidents Claims Tribunal (III Additional District Judge) at Kallakurichi.

For Appellant : Mr. T.Chandrasekaran

For Respondents : Mr. V.Gunasekar

J U D G M E N T

The transport corporation has filed the instant appeal challenging the award passed by the Tribunal in M.C.O.P. No. 42 of 2018 dated 25.08.2021.



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WEB COPY 2.The respondents filed the claim petition seeking compensation before the Tribunal stating that on 10.01.2018 at about 05.30 hours, while the deceased was travelling as a pillion rider in the two wheeler bearing Registration No. TN 15 V 0128 ridden by the first respondent near Vanjikuzhi Village, a bus bearing Registration No. TN 32 N 4079 belonging to the appellant driven by its driver in a rash and negligent manner, dashed against the two wheeler, as a result of which, the deceased sustained fatal injuries.

3.The appellant filed a counter stating that the accident occurred due to the negligence of the first respondent; that the first respondent rode the two wheeler with two pillion riders and hence, he lost control and dashed the bus, which resulted in the accident; that the deceased did not wear helmet and the first respondent did not possess valid license at the time of the accident; and hence, the appellant was not liable to pay compensation; and that in any case, the compensation claimed by the respondents was excessive and prayed for dismissal of the petition.



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4.The respondents examined PW1 and marked Ex.P.1 to Ex.P.6.

The appellant examined RW1. However, no exhibit has been marked.

5.The Tribunal after considering the oral and documentary evidence found that the accident occurred due to the rash and negligent driving of the driver of the bus and awarded a sum of Rs. 9,25,000/- towards compensation to the respondents to be paid by the appellant. Aggrieved by the said award, the appellant had preferred the instant appeal.

6.The learned counsel for the appellant submitted that the award of compensation by the Tribunal fixing entire negligence on the driver of the bus belonging to the appellant corporation is erroneous; that the rider of the two wheeler who had traveled with two pillion riders was guilty of negligence and in any case, the Tribunal ought to have fixed contributory negligence on the driver of the two wheeler. The learned counsel further submitted that Rs. 1,50,000/- was awarded under the head loss of love and affection, which is excessive, and hence, prayed for reduction in the compensation.



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7.The learned counsel for the respondents, per contra, submitted that the award of the Tribunal is just and reasonable and no interference is called for.

8.The questions that arise for consideration in the instant appeal are;

- (i) Whether the Tribunal was right in fixing entire negligence on the driver of bus?
- (ii) Whether the compensation awarded by the Tribunal is just and reasonable?

9.As regards the first question, it is seen that the first respondent who was the rider of the two wheeler (father of the deceased) was examined as PW1 to prove the manner of the accident. The appellant examined RW1 driver of the bus to show that he was not guilty of negligent driving. The versions of PW1 and RW1 are contrary to each other. They blame each other for the negligent act. However, it is seen that the first information report was registered against the driver of the bus belonging to the appellant. That apart, it is seen that RW1, in his deposition, had without any basis accused the first respondent that he



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was under the influence of alcohol. The version of the RW1 appears to be an exaggerated one. Therefore, considering the overall circumstances and evidence on record, the Tribunal was right in holding that the driver of the bus was liable for negligence and hence, no interference is called for.

10. However, as regards the quantum of compensation, it is seen that the respondents, who are the parents of the deceased, were awarded a sum of Rs. 1,50,000/- towards compensation under the head loss of love and affection. However, they are each entitled to Rs. 40,000/- and hence the award under the said head is reduced to Rs. 80,000/-. The award under the other heads are just and the same are confirmed. Thus, the award of the Tribunal is modified as follows;

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	7,50,000	7,50,000	Confirmed
2.	Funeral expenses	25,000	25,000	Confirmed
3.	Loss of love and affection	1,50,000	80,000	Reduced
	Total	9,25,000	8,55,000	Reduced by Rs. 70,000/-

11. With the above modification, this Civil Miscellaneous Appeal is



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partly allowed and the compensation awarded by the Tribunal at Rs.9,25,000/- is hereby reduced to Rs.8,55,000/- together with interest at 7.5% per annum (excluding the default period if any) from the date of petition till the date of deposit. The appellant is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of eight (8) weeks from the date of a receipt of copy of this Judgment. On such deposit, the respondents are permitted to withdraw their respective share of the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

08.09.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Motor Accidents Claims Tribunal (III Additional District Court),
Kallakurichi.

2. The Section Officer,
V.R. Section,



High Court of Madras,
Chennai.

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SUNDER MOHAN, J

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