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C.M.A.No.1793 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

**C.M.A.No.1793 of 2022**

**and**

**C.M.P.No.12957 of 2022**

The Managing Director,  
Tamil Nadu State Transport Corporation (VPM) Ltd.,  
3/137, Salamedu,  
Vazhuthareddy Post, Villupuram – 605 401.

...Appellant

Vs.

R.Natarajan

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.08.2021 in M.C.O.P.No.5811 of 2018 on the file of the Motor Accident Claims Tribunal, (IV Judge, Court of Small Causes) at Chennai.

For Appellant : Mr.T.Chandrasekaran

For Respondent : Mr.K.Varadha Kamaraj



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## **J U D G M E N T**

WEB COPY (Judgment of the Court was made by R.SUBRAMANIAN, J.)

The Transport Corporation is on appeal, challenging the award of the Motor Accident Claims Tribunal, Chennai made in M.C.O.P.No.5811 of 2018 granting a sum of Rs.22,77,000/- as compensation for the death of one Saravanan, son of the respondent, in a motor accident that occurred on 08.06.2018 at about 8.40 p.m.

2. According to the claimant, while the said Saravanan was travelling as a pillion rider in a motor cycle bearing Registration No.TN-20-BS-2190 from East to West in front of Amma Unavagam on Poonamallee High Road, Nerkundram, Chennai, the bus belonging to the appellant Corporation, which was driven in a rash and negligent manner came from behind and hit against the motor cycle resulting in the death of the said Saravanan at Rajiv Gandhi Government General Hospital on 09.06.2018. Claiming that the deceased Saravanan was a student and had a bright future prospects, the claimant sought for a compensation of Rs.30,00,000/-.



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3.The claim was resisted by the appellant Corporation contending that the accident did not occur in the manner suggested by the claimant. It was contended that the bus was not involved in the accident. According to the Corporation, a speeding car hit the two wheeler as a result of which, the deceased Saravanan got injured. The bus driver helped the injured persons as a humanitarian measure and the same has been taken advantage of by the claimants.

4.Before the Tribunal, the claimant was examined as P.W.1 and Exs.P1 to P9 were produced. The bus driver was examined as R.W.1. No documents were produced by the appellant Corporation. One John Peter, an eye-witness was examined as P.W.2. The Tribunal, upon consideration of the First Information Report and the charge sheet concluded that the driver of the bus is responsible for the accident. The Tribunal also faulted the driver of the bus for not having lodged any complaint against the driver of the Car, which according to him was the cause for the accident.



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5. On quantum, the Tribunal fixed the monthly notional income at Rs.15,000/-, added 40% towards future prospects, deducted 50% towards personal expenses and arrived at the loss of dependency at Rs.21,42,000/-. Adding Rs.15,000/- each towards loss of estate and funeral expenses, Rs.1,00,000/- towards loss of love and affection and Rs.5,000/- towards transportation, the Tribunal awarded the total compensation of Rs.22,77,000/-.

6. We have heard Mr.T.Chandrasekar, learned counsel for the appellant and Mr.Varadha Kamaraj, learned counsel for the respondent.

7. Mr.T.Chandrasekar, learned counsel appearing for the appellant would vehemently contend that the Tribunal erred in deciding the question of negligence based on certain stray answers given in the cross-examination as driver. He would also point out that the quantum of compensation is on the higher side and the Tribunal ought to have taken only a sum of Rs.10,000/- as notional income.



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8.Contending contra, Mr.Varadha Kamaraj, learned counsel appearing for the claimants would submit that the Tribunal had not relied upon the stray answers and the driver alone. It had also adverted to the evidence of P.W.2, eye-witness as well as the fact that the First Information Report and the charge sheet were laid against the driver of the bus. Drawing our attention to the specific portions of the evidence of R.W.1, the driver of the bus, Mr.Vardha Kamaraj would submit that he had infact, admitted the accident.

9.On the quantum, the learned counsel appearing for the claimant would submit that even a last grade servant was earning more than Rs.15,000/- at the relevant point of time and the deceased was a bright student and he had better prospects of earning more. According to him, the sum of Rs.15,000/- fixed as notional income is justified, considering the wageries in life and the chances of unemployment. We have considered the rival submissions.



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10.No doubt, the driver of the bus had stepped into the witness box to depose about the accident but, the First Information Report has been lodged against him and a charge sheet had also been laid against him. He has admitted the First Information Report and he has infact, said that the statements made therein are incorrect. This vital admission cannot be ignored as a stray answer. If the claim of the RW-1 that a car was responsible for the accident is true, he, as a responsible Government servant should have lodged a complaint with the police regarding the accident, soon after the accident. Having not done so, he cannot be heard to contend that some other vehicle was responsible for the accident. We are therefore, unable to fault the Tribunal for finding that the accident occurred due to the negligence of the driver of the bus.

11.On the quantum also, we do not see any reason to reduce the same. The Tribunal has taken only Rs.15,000/- as notional monthly income. In 2018, the salary drawn by a last grade Government servant was around Rs.20,000/- therefore, the adoption of Rs.15,000/- as notional income for a



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student cannot be said to be on the higher side. The compensation awarded under the other heads is also reasonable and we do not see any reason to interfere with the same. This Civil Miscellaneous Appeal therefore, fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M.,J.) (S.S.K.,J.)  
20.01.2023

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Internet:Yes

Index:No

Speaking

To:-

The Motor Accident Claims Tribunal,  
IV-Court of Small Causes,  
Chennai.



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