



C.M.A.No.2728 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2728 of 2014

And

M.P.No.1 of 2014

The Managing Director,
Tamil Nadu State Transport
Corporation,
Villupuram

... Appellant

Vs.

1.Annamalai
2.Rani

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal and to set aside the judgment and decree dated 30.03.2012 made in M.C.O.P.No.220 of 2011 on the file of the Motor Accidents Claims Tribunal, (Fast Track Court No.3), Kallakurichi.

For Appellant : Mr.S.S.Santhosakumar
For Respondents : NRN

J U D G M E N T

The respondent Transport Corporation before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has



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been filed seeking to set aside the order dated 30.03.2012 passed by the Motor Accidents Claims Tribunal, (Fast Track Court No.3), Kallakurichi, in M.C.O.P.No.220 of 2011.

2.The brief facts of the case is that on 12.11.2008 at about 21.15 hours, the deceased Ponnuvel was riding in his by-cycle towards his residence from Kallakurichi. At that time, near D.S.P.Office Salem-Cuddalore Main Road one passenger bus bearing Registration No.TN 32/N 1608 came in a rash and negligent manner and hit on the backside of the cycle, due to which, the said Ponnuvel sustained grievous injuries and died on the spot.

3.Thereafter, the dependants of the deceased Ponnuvel/ respondents filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.10 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.4,95,000/- as compensation to the claimants along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization and cost and directed the appellant Transport Corporation to deposit the compensation within three months, failing which, to pay interest at the rate of 9% till the date of payment after the said three months.



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Aggrieved by the same, the appellant Transport Corporation has filed this appeal.

4.The learned counsel appearing for the appellant submitted that at the time of death the deceased was 17 years and no proof for income was marked before the Tribunal, however, the Tribunal fixed the monthly income of the deceased as Rs.3,500/- and awarded a sum of Rs.4,76,000/- for loss of earnings is not sustainable one and the amount awarded under the other heads i.e., a sum of Rs.14,000/- for loss of love and affection and a sum of Rs.5,000/- for funeral expenses is also highly excessive.

5.Heard the learned counsel appearing for the appellant. Though the appeal has been filed during the year 2014, till date, the appellant has not taken any steps to serve notice on the respondents. Considering the pendency of the appeal, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

6.Admittedly, on 12.11.2008 at about 21.15 hours, the deceased Ponnuvel was riding in his by-cycle towards his residence from



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Kallakurichi. At that time, near D.S.P.Office Salem- Cuddalore Main Road one passenger bus bearing Registration No.TN 32/N 1608 came in a rash and negligent manner and hit on the backside of the cycle, due to which, the said Ponnuvel sustained grievous injuries and died on the spot.

7. Thereafter, the dependants of the deceased Ponnuvel/ respondents filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.10 Lakhs. After adjudication, the Motor Accidents Claims Tribunal, taking into consideration that at the time of death, the deceased was 17 years and the fact that the claimants pleaded that the deceased was earning Rs.5,000/- per month, however, no proof for income was marked, fixed the monthly income of the deceased at Rs.3,500/- and after deducting 1/3rd towards the personal expenses awarded a sum of Rs.4,76,000/- for loss of earnings by adopting multiplier 17. The Tribunal further awarded a sum of Rs.14,000/- for loss of love and affection and a sum of Rs.5,000/- for funeral expenses and awarded a sum of Rs.4,95,000/- as compensation to the claimants. The Tribunal properly appreciated the factual findings in terms of Prannay Sethi and Syed Sadiq decisions and awarded compensation, which is just and



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reasonable and the same warrants no interference.

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8.The civil miscellaneous appeal stands dismissed. The award and decree passed in M.C.O.P.No.220 of 2011, dated 30.03.2012 by the Motor Accidents Claims Tribunal, (Fast Track Court No.3), Kallakurichi, is confirmed.

9.The appellant/ Transport Corporation is directed to deposit the award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the respondents are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal.

10.The civil miscellaneous appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

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M.DHANDAPANI,J.
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To

1.The Motor Accidents Claims Tribunal,
(Fast Track Court No.3), Kallakurichi.

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And
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