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C.M.A.No.3631 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3631 of 2014

And

M.P.No.1 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kancheepuram Division, 1, Nadu Street,
Vedachalam Maligai,
Kancheepuram.

... Appellant

Vs.

1.Sumathi
2.Prema

3.The Secretary to Government,
Transport Department,
State of Tamil Nadu,
Fort St. George,
Chennai.

(R3 *Suo motu* impleaded vide order
of Court dt.9/12/14 made in
M.P.No.3 of 2014 in CMASR No.37035 of 2014)

4.Insurance Regulatory Development Authority
represented by its Chairman cum
Managing Director,
Hydrabad.

(R4 *Suo motu* impleaded vide order
of Court dt.5/2/15 made in
CMA No.3631 of 2014)

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5.General Insurance Council,
5th Floor, Royal Insurance Building,
14, Jamshedji Tata Road,
Churchat, Mumbai.

(R5 *suo motu* impleaded vide order
of Court dt.27/3/15 made in
CMA No.3631 of 2014)

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment passed by the Motor Accidents Claims Tribunal, Chief Small Causes Court, Chennai made in M.C.O.P.No.1260 of 2008 dated 27.11.2013 and allow this CMA.

For Appellant : Mr.K.J.Sivakumar

For Respondents : R1 & R2 – No Appearance
Dr.S.Suriya for R3
Additional Government Pleader
Mr.E.Rajadurai for R4
for M/s.M.B.Gopalan and Asso.

J U D G M E N T

The first respondent Transport Corporation before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed seeking to set aside the judgment and decree dated 27.11.2013 passed by the Motor Accidents Claims Tribunal, Chief Small Causes Court, Chennai, in M.C.O.P.No.1260 of 2008.



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2.The brief facts of the case is that on 10.03.2008, at about 7.00p.m., the husband of the first respondent was proceeding in his bicycle on the extreme left side of the road at Kanchipuram to Chennai (Ponnerikarai) near Indhira Nagar Bus Stop. At that time, the bus bearing Registration No.TN-32-N-1867 belonging to the appellant was driven by its driver in a rash and negligent manner from Chennai towards Kancheepuram and hit against the husband of the first respondent, due to which, he died on the spot.

3.Thereafter, the first respondent filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.6 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.7,30,200/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization (excluding the period between 11.04.2011 to 03.01.2013) and proportionate costs and directed the appellant Transport Corporation to deposit the compensation. Aggrieved by the same, the appellant Transport Corporation has filed this appeal.

4.The learned counsel appearing for the appellant submitted



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due to the negligent driving of the bicyclist, the accident happened, however, the appellant has filed this appeal questioning the quantum of compensation awarded by the Tribunal. The learned counsel further submitted that without any proof, the Tribunal fixed the notional monthly income of the deceased at Rs.4,500/- and added 30% towards future prospects and after deducting 1/3 for his personal expenses, awarded a sum of Rs.6,55,200/- for loss of dependency by adopting multiplier method, which is highly excessive.

5.Heard and perused the materials available on record.

6.Admittedly, on 10.03.2008, at about 7.00 p.m., the husband of the first respondent was proceeding in his bicycle on the extreme left side of the road at Kanchipuram to Chennai (Ponnerikarai) near Indhira Nagar Bus Stop. At that time, the bus belonging to the appellant was driven by its driver in a rash and negligent manner from Chennai towards Kancheepuram and hit against the husband of the first respondent, due to which, he died on the spot.



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7.Ex.P.1 is the copy of F.I.R. and it has been registered as against the driver of the appellant's bus, copy of post mortem certificate is marked as Ex.P.2, death certificate is marked as Ex.P.3. Inorder to prove the case, the claimant examined herself as P.W.1 and eye witness was examined as P.W.2 After adjudication, the Tribunal fixed the liability as against the appellant, which warrants no interference.

8.This is a case of fatal accident that happened in the year 2008. At the relevant point of time, the Hon'ble Apex Court in Syed Sadiq case fixed Rs.6,500/- as the notional income of the vegetable vendor. However, the Tribunal has fixed only a sum of Rs.4,500/- as the notional monthly income of the deceased and added 30% towards future prospects and after deducting 1/3 for his personal expenses, awarded a sum of Rs.6,55,200/- for loss of dependency by adopting multiplier method, which is just and reasonable.

9.The amount awarded under the other heads namely, loss of consortium for the first respondent – Rs.25,000/-, love and affection for the second respondent – Rs.25,000/-, loss of estate – Rs.10,000/- , funeral expenses – Rs.10,000/-, transport expenses – Rs.5,000/-,



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are also just and reasonable. Hence, the appeal is mis-conceived.

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10.The civil miscellaneous appeal stands dismissed. The judgment and decree dated 27.11.2013 passed by the Motor Accidents Claims Tribunal, Chief Small Causes Court, Chennai, in M.C.O.P.No.1260 of 2008, is confirmed.

11.The appellant/ Transport Corporation is directed to deposit the entire award amount before the Tribunal within a period of six 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 claimant/ first respondent and the second respondent are permitted to withdraw their respective share as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal.

12.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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1.The Motor Accidents Claims Tribunal,
Chief Small Causes Court, Chennai.

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