



WEB COPY



C.M.A.No.645 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on :14.12.2022

Judgment Pronounced on :20.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.645 of 2021

and

C.M.P.No.3921 of 2021

The Vice Chairman–The Managing Director,
Andhrapradesh State Road Transport Corporation,
Vijayawad

... Appellant

vs.

1.Thulasi
2.Vasuthavan
3.Indumathi
4.Minor Nirosha
(Minor P4 rep.by her NF/Guardian and mother P1 Thulasi)

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 19.11.2019 passed by the Hon'ble Special District Judge, Krishnagiri in M.C.O.P.No.314 of 2019 is praying to set aside the above said award and decree against this appellant.

For Appellant : M/s.G.V.Shoba

For Respondents :Mr.E.Kannadasan



C.M.A.No.645 of 2021

WEB COPY

J U D G M E N T

The State Road Transport Corporation is the appellant herein.

2. The respondents 1&2 are the parents of the deceased in the accident who have filed the above M.C.O.P.No.314 of 2019 claiming compensation for the death of her paternal son, aged about 19 years in the road transport accident that had happened on 04.01.2019.

3. In the counter statement, the appellant/Transport Corporation denied various averments and inter-alia contended that on the date of the accident, the driver of the two wheeler does not own any driving license and 3 persons have travelled in the two wheeler and none of them are wearing helmet and hence contended that the deceased had invited the accident.

4. During the course of trial, on behalf of the claim petitioner, P.W.1 and P.W.2 were examined and Exhibits P1 to P14 were marked. On the respondent's side, R.W.1 driver of the bus was examined.

5. The learned Special District Judge for M.C.O.P cases has also observed that the accident has taken place due to the rash and negligence of the driver of the Transport Corporation bus. Accordingly, the compensation based on the entire liability is fixed on the Transport



C.M.A.No.645 of 2021

Corporation and the quantum of compensation for II year B.E student was fixed at Rs.9,000/- being the notional income. Multiplier of 18 is adopted and following the Hon'ble Supreme Court in National Insurance Company Limited Vs.Pranay Sethi and others (S.L.P.(Civil) No.25590 of 2014, dated 31.10.2017) and Sarla Verma's case and on the other heads, compensation of Rs.15,000/ was granted. The loss of estate was not granted. Rs.15,000/- was granted towards funeral expenses and towards loss of love and affection Rs.30,000/- was granted.

6. On the point of quantum of compensation, I find that the compensation is just and fair.

7. On the point of contributory negligence, admittedly, it is seen from the records that the final report filed by the Police also is not available at the time of the accident. 3 persons have travelled in the accident who are the rider of the two wheeler does not own any driving license at the time of the accident. The F.I.R was registered against the driver of the bus. As per Ex.P1 complaint, the case has been registered against driver of the appellant transport corporation under Sections 304-A and 337 I.P.C and hence the Tribunal has rightly come to the conclusion that in the absence of any positive evidence to show the deceased who was riding of the vehicle was rash and negligent, the rider does not have any driving license on the date of the accident and it was categorically



C.M.A.No.645 of 2021

held that the appellant/Transport corporation has miserably failed to probablize that the pleadings by adducing valid legal evidence and hence the finding of the Tribunal that the accident has taken place due to the rash and negligent driving of the driver of the appellant transport corporation alone cannot be interfered with, in the absence of any oral and documentary evidence and hence both the points on the negligence and also on the point of quantum of compensation. I find that the finding rendered by the Tribunal is just and fair and does not require any interference.

8. Accordingly, Civil Miscellaneous Appeal is dismissed. Time for depositing the amount shall be within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected C.M.P is closed.

20.01.2023

nvi

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation : Yes/ No

To

1. The Motor Accidents Claims Tribunal (Principal Subordinate Judge) at Chidambaram

2. The Section Officer,

4/5



WEB COPY

V.R.Section,
High Court of Madras, Chennai.



C.M.A.No.645 of 2021

RMT.TEEKAA RAMAN, J.,
nvi

Judgment in
C.M.A.No.645 of 2021 and
C.M.P.No.3921 of 2021

20.01.2023