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CMA.No. 654 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **14.03.2023**

CORAM:

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN THILAKAVADI**

C.M.A.No.654 of 2023

The Managing Director,
The Tamil Nadu State Transport Corporation,
Divisional Office II,
Periyamilaguparai,
Trichy-1.

... Appellant

Vs.

Gousinisha

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Award and Decree dated 29.04.2022 made in M.C.O.P.No. 559 of 2016, on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur.

For Appellants : Mr. C. Gauthamaraj

For Respondent : Mr. Manikandan



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JUDGMENT

[Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*]

The appellant has preferred the appeal as against the Award passed by the Motor Accident Claims Tribunal, Perambalur.

2. According to the claimant, the accident occurred on 24.03.2016 at about 4:30 hours when one Siraj was riding his bike bearing Registration No. TN 59 BC 6487 on the Trichy – Ariyalur Main Road from the east to west on the left side of the road and it was in the opposite direction the appellant Corporation bus was driven by the driver of the appellant bearing registration No. TN 45 N 3349 which came in rash and negligent manner and dashed against the deceased vehicle. Due to the said accident, the deceased Siraj was thrown away and sustained fatal injury and died on the spot. Police had registered a case as against the driver of the appellant corporation in Crime No.249/16 under Section 304(A) IPC.

3. The appellant Corporation has filed a written statement and denied the averments stating that due to the rash and negligent driving on the part



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of the respondent's husband/Siraj, the driver of the bus lost his balance and hit. Therefore there is no negligence on the part of the appellant Corporation.

4. Based on the oral evidence, the Tribunal had come to the conclusion that there was negligence on the part of the appellant transport Corporation. As against the said findings of the Tribunal, the present appeal has been filed on the ground of negligence.

5. According to the appellant Corporation, the Tribunal has failed to consider the case of the appellant Corporation in a proper perspective without considering the documentary evidence adduced by the appellant Corporation.

6. In support of the respondent's claim, PW1 and PW2 were examined. Exs. P1 to Ex.P4 were marked before the Tribunals. On the side of the appellant Corporation, RW1 was examined and no oral documentary evidence was adduced.



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7. RW1 says that the driver drove the vehicle from Tirichi to Jayamkondam in a slow manner and the deceased came in the opposite direction in a rash and negligent manner. The said evidence of RW1 was not supported by any material. During the cross examination of the RW1, he states that the accident had happened due to the negligence of the driver of the appellant Corporation and the FIR was lodged and nothing was elicited in the cross examination of P.W.2, which itself speaks that the negligence is only on the part of the driver of the appellant Corporation. Therefore, the Tribunal has come to the right conclusion that negligence was on the part of the driver of the appellant Corporation, who has driven the vehicle in a rash and negligent manner and caused the accident

8. The second contention of the appellant Corporation is in respect of the quantum.

9. On perusal of the awarded passed by the Tribunal, it is seen that the Tribunal has awarded a sum of Rs. 25,06,712/- to the respondent/claimant.



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10. The Tribunal has calculated loss of dependency as follows:

The notional income of the deceased was fixed at Rs. 12,978/- per month, plus 40 % towards future prospectus i.e. Rs. 5119/- comes to Rs. 2,15,004/- (17,917*12) per year and after deducting 1/3rd of the income of the deceased for personal expenses, it comes to Rs. 1,43,336/-. Based on the Sarala Varma's Case, since the age of the deceased was 28, Multiplier 17 was adopted by the Tribunal, therefore, towards Loss of Dependency, it comes to Rs. 24,36,712/-.

11. The Tribunal has also awarded under other heads, towards Loss of Estate Rs.15,000/-, towards Funeral expenses Rs. 15,000/- and towards Loss of Consortium Rs.40,000/-. The total compensation amount awarded adding all the above heads comes to Rs. Rs.25,06,712/-. The said award amount is under challenge in this present appeal.

12. Therefore, the appellant Corporation has no valid ground for challenging the determination of the award passed by the Tribunal. The said award is just and fair and we are satisfied with the compensation amount awarded in favour of the claimants. Therefore, the award does not warrant any interference. Hence the appeal is liable to be dismissed. Consequently the Civil Miscellaneous Appeal is dismissed.



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13. The appellant Corporation is directed to deposit the entire compensation amount within a period of 12 weeks, less if already any amount is deposited. On such amount being deposited within the aforesaid period, the claimant/respondent is entitled to withdraw the said amount by filing an appropriate application before the Tribunal. No costs.

**(D.K.K., J.) (K.G.T., J.)
14.03.2023**

Intex : Yes/No
Internet : Yes/No
mrn

To

1.The Motor Accidents Claims Tribunal,
Principal District Judge, Perambalur.

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



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D.KRISHNAKUMAR, J.
and
K.GOVINDARAJAN THILAKAVADI, J.
(mrn)

JUDGMENT MADE IN
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14.03.2023