



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.672 of 2021

The Managing Director,
M/s.Tamil Nadu State Transport Corporation Limited,
Bharathipuram, Dharmapuri.

.. Appellant

Vs.

1. Abinaya

2. Senthilkumar

.. Respondents

prayer: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment, dated 19.10.2019 in MCOP. No.336 of 2018 on the file of the Motor Accident Claims Tribunal/Special District Court, Krishnagiri.

For Appellant : Ms.Rajathi
For Respondents : Mr.Mukund R.Pandian RR1 & 2

JUDGMENT

The Civil Miscellaneous Appeal has been filed have been filed seeking quantum of compensation in the decree and judgment, dated 19.10.2019 in MCOP. No.336 of 2018 on the file of the Motor Accident Claims Tribunal/Special District Court, Krishnagiri.



WEB COPY

2. It is the case of the appellants that on 01.12.2017 at 18.30 hours, the deceased, who is the minor, aged about 6 months and his family members were returning to the house in the car bearing Reg. No.TN 24 Q 0156. The grandfather of the deceased was driving the car at Dam Road Flyover southern side down in Dharmapuri to Krishnagiri Road, a TNSTC Bus bearing Reg. No.TN 29 N 2473 belonging to the appellant, was coming from Krishnagiri side to Dharmapuri side. The driver of the car driven the vehicle in a rash and negligent manner and dashed against the appellant Corporation Bus. Due to the said accident, the deceased and his family members sustained injuries. The deceased was immediately taken to the Government Hospital and admitted there as inpatient. Thereafter, the infant died due to the injuries. Hence, the parents of the deceased has filed Claim Petition before the Motor Accident Claims Tribunal, Krishnagiri claiming compensation for a sum of Rs.25,00,000/- for the injuries sustained by him and also claiming compensation for a sum of Rs.10,00,000/- for the death of his son under various heads. The Tribunal, after considering the pleadings, oral and documentary evidence, awarded a sum of Rs.9,45,000/-for the death of the minor child as compensation.



3. For challenging the quantum of compensation, the appellant Transport Corporation has filed the present appeal before this court.

4. The learned counsel appearing for the appellants contended that the method adopted by the Tribunal for fixing the compensation for the death of 6 months old girl is not correct and the same is excessive and the Tribunal ought to have awarded atleast Rs.5,00,000/- as compensation for the death of the minor girl. The compensation amount awarded by the Tribunal is exorbitant, in view of the judgment passed by the Apex Court in the case of *Kishan Gopal & Anr. vs. Lala & Ors.*, reported in 2014 (1) SCC 244.

5. Per contra, the learned counsel appearing for the respondents- contended that due to rash and negligent driving of the driver of the bus, the accident had occurred. The quantum of compensation awarded by the Tribunal is just and reasonable, which does not warrant any interference. Hence, he prayed for dismissing the appeal.

6. Heard the learned counsel for the appellant as well as the second respondent and also perused the materials available on record.



7. The facts of the case are not in dispute. The case of the appellant is that on 01.12.2017, the deceased, who is the minor, aged about 6 months, died due to the accident. The main grievance of the appellant is that as per the decision of the Hon'ble Apex court in the case of *Kishan Gopal*, the Tribunal ought to have awarded a sum of Rs.5,00,000/-. Contrary to the said order, for the death of the deceased, the Tribunal has awarded a sum of Rs.945,000/- to the parents of the deceased.

8. In the case in hand, the deceased child was 6 months old at the time of accident. The Tribunal has awarded a lumpsum amount for the death of the child as per the ratio laid down by the Hon'ble Supreme Court in a catena of decisions as well as this Court. The Tribunal has fixed notional income for the child at Rs.60,000/- per annum by applying the multiplier "13", which is just and reasonable. As far as the other heads are concerned, the amount awarded by the Tribunal is not excessive.

9. Further the Hon'ble Apex Court rendered the judgment in the year 2014 for the accident occurred in the year 1992 and awarded fixed compensate of Rs.5,00,000/-. However, in the present case on hand, the six



months old infant died due to the accident in the year 2017 and the said

lumpsum amount cannot be equated for the accident occurred in the year 1992

Therefore, the Tribunal has rightly dealt with the matter and awarded compensation for the death of the minor child, which is perfectly in order and the same does not warrant any interference by this Court.

10. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant/Transport Corporation is directed to deposit the award amount as quantified by the Tribunal along with interest at 7.5% p.a., from the date of claim petition till date of deposit, less the amount, if any, already deposited, to the credit of the claim petition within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants shall withdraw the same on making an appropriate application.

15.12.2023

rli

Index : Yes

Speaking Order : Yes

To



1. The Managing Director,
M/s.Tamil Nadu State Transport Corporation Limited,
Bharathipuram, Dharmapuri.

2. The Motor Accident Claims Tribunal/Special District Court, Krishnagiri.

M.DHANDAPANI,J.

Rli

C.M.A.No.672 of 2021



WEB COPY



15.12.2023