



C.M.A.No.2671 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Civil Miscellaneous Appeal No.2671 of 2021
and
Civil Miscellaneous Petition No.15283 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division,
Kancheepuram. ... Appellant / 1st Respondent

Vs.

1. E. Meenatchi
2. K. Elumalai
3. E. Balamurugan ... Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 07.02.2019 made in M.C.O.P.No.277 of 2016 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court, Kanchipuram.

For Appellant : Mr. K. J. Sivakumar
For Respondents : Mr. M. Sivakumar



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed by the Transport Corporation challenging the quantum of compensation awarded in M.C.O.P.No. 277 of 2016, dated 07.02.2019, on the file of the Motor Accidents Claims Tribunal, Additional District Court (FTC), Kanchipuram.

2. The parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The case of the claimant is that on 18.01.2016 at about 9.15 a.m., the deceased E.Anand was riding his two-wheeler from Thenpasiyar Village to Chennai on the extreme left side of the road, while he reached near Pazhaveli Village, the Transport Corporation bus following him in rash and negligent manner and hit on him and caused death instantaneously. The claimants who are the dependants of the deceased viz., mother, father and brother have come forward with this claim petition seeking compensation for a sum of Rs.20,00,000/- for the death of the deceased.

4. The appellant - Transport Corporation has contested the



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claim on the ground that the deceased herein is the responsible for the accident and also challenged the quantum of compensation awarded by the Tribunal. He has also contended that the claimants have to prove the age, income and avocation of the deceased.

5. Based on the evidences placed on record, the Tribunal, in Point No.1 has held that the driver of the bus belongs to the first respondent is responsible for the accident and in Point No.2 the Tribunal has quantified the compensation a awarded a sum of Rs.19,56,760/- as compensation along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

6. Aggrieved over the quantum of compensation awarded, the Transport Corporation has filed this appeal.

7. The claimants have not filed any appeal or cross objection to challenge the same.

8. Mr. M. Sivakumar, learned counsel for the claimants has submitted that without proper appreciation of evidence relating to the



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income of the deceased the Tribunal has fixed the monthly income at Rs.12,475/- of the deceased is not proper and the compensation awarded by the Tribunal under various other heads are also on the higher side hence prays to modify the award.

9. The deceased is aged about 21 years at the time of accident and was working as a Delivery Boy in FSC On-line Service at Chennai. He has also produced Salary Certificates and it has been accepted by the Tribunal on the basis of evidence adduced on record. Accordingly, his monthly income has been fixed as Rs.12,475/- and considering the age of the deceased applied proper multiplier '18' and 40% future prospects has also been awarded and since the deceased is a bachelor 50% amount is deducted and accordingly the compensation under the head loss of income has been arrived at Rs.18,86,760/-.

10. The evidence placed on record, shows that the claimants have not examined the employer of the deceased and they have only marked Pay Slip for the month of January - 2016 and the Employment Identity Card issued by the employer has been marked as Ex.P5. He has also having valid driving licence to ride the two-wheeler at the time of accident.



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11. It is the case of the claimants that the deceased is a Delivery Boy and used to deliver the goods to the on-line customers by using his two-wheeler and he has also produced Salary Certificate showing that he was earning Rs.12,475/- per month. Even in the absence of any income proof, since the accident had taken place in the year 2016, the notional income to be fixed equal to the income earned by him as claimed by the claimants herein. Hence, this Court is of the view that the notional income fixed by the Tribunal for calculating loss of income is proper and the same requires no modification and accordingly the compensation awarded under the head loss of income is hereby confirmed.

12. The Tribunal has also awarded a sum of Rs.15,000/- each under the head funeral expenses, and loss of estate and this Court is of the view the same is proper and reasonable and the same are hereby confirmed. However, the Tribunal has awarded totally a sum of Rs.40,000/- for the head loss of consortium to all the claimants. As per the Judgment of the Apex Court in ***Magma General Insurance Co. Ltd., vs. Nanu Ram and Others [2018 (18) SCC 130]*** case, all the claimants are entitled to get compensation under the head loss of consortium. Accordingly, the claimants are entitled



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for a sum of Rs.40,000/- each under the head loss of consortium. Even though, the claimants have not made any appeal since, this appeal being filed for deciding the quantum of compensation, this Court is of the view that for awarding just compensation, it is proper to enhance the head loss of consortium, a sum of Rs.40,000/- each to the claimants. Hence, this Court is inclined to enhance the compensation awarded under the head loss of consortium to Rs.1,20,000/- (40,000 x 3).

13. In the result, the Judgment and Decree passed by the Tribunal in M.C.O.P.No.277 of 2016, dated 07.02.2019, on the file of the Motor Accidents Claims Tribunal, Additional District Court (FTC), Kancheepuram is hereby modified to Rs.20,36,760/- [Rupees Twenty Lakhs Thirty Six Thousand Seven Hundred and Sixty Only] together with interest at the rate of 7.5% per annum from the date of filing of claim petition till the date of deposit, less the default period, if any. The Transport Corporation is directed to deposit the amount now determined by this Court along with interest and costs as per the apportionment fixed by the Tribunal. In other aspects the award of the Tribunal shall stand confirmed. The Civil Miscellaneous Appeal filed by the Transport Corporation stands disposed of. There shall be no order as to costs in the present appeal. Consequently, the



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connected miscellaneous petition stands closed.

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Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No

To:

1. The Additional District Judge,
Fast Track Court,
Motor Accidents Claims Tribunal,
Kanchipuram.
2. The Section Officer,
V.R.Section,
High Court,
Chennai.

K.RAJASEKAR,J.

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