



C.M.A.No.1512 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2023

CORAM:

THE HONOURABLE MR JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MRS JUSTICE R.KALAIMATHI

C.M.A.No.1512 of 2023

and

C.M.P.No.15444 of 2023

The Managing Director,
Tamil Nadu State Transport
Corporation (Coimbatore) Division-I,
37, Mettupalayam Road,
Coimbatore District,
Branch at Kangayam Road,
Tirupur District.

...Appellant

Vs.

1.Vijayakumar

2.MinorLakshitha

3.Minor Ragul Kumar

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 20.04.2022 made in M.C.O.P.No.797 of 2019 on the file of the Special Motor Accident Claims Tribunal, Presiding Officer, Tiruppur.



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For Appellant : Mr.M.Murali Vinodh

For Respondents : Mr.Ma.Pa.Thangavel

J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

The Transport Corporation is the appellant. Compensation was sought for the death of one Kanchana, who died in a road accident that took place around 7.50 p.m on 24.03.2019. The claimants are the husband and minor children of the deceased.

2.According to the claimants, while the deceased was travelling as a pillion rider in a motor cycle bearing Registration No.TN-42-AA-1950 driven by one Marudhachalam from East to West on the left side of the Kovai – Trichy road near Sulur, the bus belonging to the Corporation, which was driven by its driver in a rash and negligent manner came from behind and hit against the motor cycle, as a result of which, the pillion rider Kanchana died on the spot. A case in Crime No.278 of 2019 was registered on the basis of a First Information Report lodged by one Nagarajan, brother of the deceased. Contending that the negligence on the part of the driver of



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the bus was the cause for the accident and that the deceased was earning about Rs.20,000/- per month, the claimants sought for Rs.40,00,000/- as compensation.

3.The claim was resisted by the Corporation contending that the accident did not occur in the manner suggested by the claimants. It was further contended that the driver of the two wheeler attempted to overtake the bus on the left side and hit against the bus. Therefore, it is his negligence, which caused the accident. On the quantum, income claimed was disputed and total compensation claimed was termed as excessive.

4.Before the Tribunal, the 1st claimant was examined as P.W.1 and one Gokul, an eye-witness was examined as P.W.2. Exs.P1 to P6 were marked. On the side of the respondent, the driver of the bus, Chinnapandi was examined as R.W.1 and no documents were marked.

5.Mr.M.Murali Vinodh, learned counsel for the appellant Corporation would vehemently contend that the Tribunal erred in



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concluding that the negligence on the part of the driver of the bus was the cause for the accident. The Tribunal had taken into account the First Information Report filed by the Police against the bus driver. The Corporation has not produced the motor vehicle Inspector's report of the bus to show that there is any damage to the bus on the front left side as claimed by the Corporation. In the absence of evidence to the effect that the rider of the two wheeler was responsible for the accident, we do not think that we can fault the Tribunal for coming to the conclusion that the negligence is on the part of the bus driver.

6. On the quantum, the Tribunal has taken notional income of the deceased at Rs.13,000/- per month. The accident happened in the year 2019. Even minimum wages would be more than what the Tribunal has fixed. The Tribunal added 40% towards future prospects and after deducting 1/3rd based on the number of the dependents, the Tribunal has fixed the monthly pecuniary loss at Rs.12,134/-, applying the multiplier of 17, the Tribunal arrived at the pecuniary loss at Rs.24,75,336/-. The Tribunal has granted a sum of Rs.15,000/- for loss of property, Rs.15,000/-



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for funeral expenses and Rs.40,000/- towards loss of consortium. No amount has been awarded towards loss of love and affection to the minors.

7.Considering the over all compensation that has been granted, we do not think that we should interfere with the quantum of compensation. This Civil Miscellaneous Appeal therefore, fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed. If the Corporation has deposited the entire amount, the major claimant would be entitled to withdraw his share as apportioned by the Tribunal. The share of the minor claimants is directed to be kept in cumulative interest bearing fixed deposit in a Nationalised Bank till they attain majority. We are not permitting the father to withdraw the interest on the fixed deposit, since he can support the children.

(R.S.M.,J.) (R.K.M.,J.)
20.07.2023

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Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order

Nuetral Citation : Yes/No

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R.SUBRAMANIAN, J.
and
R.KALAIMATHI, J.

KKN

To:-

The Motor Accident Claims Tribunal,
Presiding Officer, Tiruppur.

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and
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