



C.M.A.No.3905 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3905 of 2019

and

C.M.P.No.22227 of 2019

The VD and MD,
Andhra Pradesh State Road Transport Corporation,
Bus Bhavan Musheerabad Medchel,
Hyderabad, Andhrapradesh. ... Appellant/Respondent

Vs.

1.Chinnapappa
2.Durai ... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 29.09.2016 passed by the Special District Judge, Motor Accidents Claims Tribunal, Dharmapuri in M.C.O.P.No.494 of 2014.

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

For Respondents : Ms.Shri Varshini
for M/s.I.Abrar Mohamed Abdullah [R1]
Not Ready in Notice [R2]



C.M.A.No.3905 of 2019

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JUDGEMENT

Questioning the negligence as well as the quantum of compensation awarded by the Special District Judge, Motor Accidents Claims Tribunal, Dharmapuri in M.C.O.P.No.494 of 2014, the appellant/Transport Corporation filed the present appeal.

2. Brief facts which are necessary for disposal of this appeal are as follows:-

(i) On 28.03.2013, the deceased D.Muniraj was driving a Maruthi Van bearing Reg.No.TN 10 AA 7252 from Kareemnagar to Chennai. At about 11.30 p.m., when the deceased Maruthir Van was nearing Pudikuppam Village, Tada Mandal, a bus bearing Reg.No.AP 29 Z 1860, belonging to the appellant, came from the opposite direction in a rash and negligent manner, dashed against the deceased vehicle, thereby the deceased sustained grievous injuries. Immediately, the deceased was taken to Sullurpet Government Hospital by High Way 108 Ambulance, on the way, the deceased was succumbed to death due to fatal injuries. Thereafter, the



C.M.A.No.3905 of 2019

claimants have filed a claim petition claiming compensation of Rs.20,00,000/- under various heads.

3. Before the Tribunal, the claimants examined three witnesses viz., P.W.1 to P.W.3 and marked 19 documents viz., Ex.P.1 to Ex.P.19. On the side of the Transport Corporation, they have examined one witness viz., R.W.1 and no document was marked. After adjudication, the Tribunal awarded a sum of Rs.10,68,000/- as compensation to the claimants. Aggrieved by the same, the present appeal has been filed by the Transport Corporation.

4. The learned counsel appearing for the appellants/Transport Corporation submitted that, the accident had happened in the National Highways. Due to the heavy traffic jam, all the vehicles slowly moved, at that time, the deceased person driven the van in a rash and negligent manner along with the pillion rider, who made complaint before the Law Enforcing Agency and dashed against the stationed appellant/Transport Corporation



C.M.A.No.3905 of 2019

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vehicle, thereby the accident had happened. In order to prove the same, the driver of the bus was examined and he deposed the manner in which the accident had happened. However, without accepting the same, the Tribunal fixed the entire liability as against the Transport Corporation, which is not sustainable and the compensation awarded by the Tribunal is highly excessive, which is liable to be interfered with. Accordingly, he prays for allowing the appeal.

5. Per contra, the learned counsel appearing for the first respondent submitted that, though the respondents filed a claim petition seeking compensation of Rs.20,00,000/-, however, the Tribunal awarded only a sum of Rs.10,68,000/-. For proving the negligence, P.W.1 and P.W.2 were examined before the Tribunal and they clearly deposed the manner in which the accident had happened and P.W.2 specifically deposed that there is no traffic jam and the accident had happened in the mid night. She further submitted that due to the negligence of the driver of the appellant/Transport Corporation's bus, the accident had happened. In view of the above



C.M.A.No.3905 of 2019

WEB COPY

evidence adduced before the Tribunal, the Tribunal fixed the entire negligence on the part of the appellant/Transport Corporation, which cannot be interfered with. At the time of death, the deceased was aged about 30 years and by considering all the materials available on record, the Tribunal had awarded compensation, which is just and reasonable and the same cannot be interfered with. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel for the appellant and the learned counsel appearing on behalf of the first respondent and perused the materials available on record.

7. Admittedly, the deceased driven the Maruthi Van along with P.W.2 and they proceeded towards Chennai from Kareemnagar. It is alleged that due to the rash and negligent driving of the driver of the appellant/Transport Corporation's bus, the accident had happened. In order to prove the same, P.W.2, who is an eye witness, who travelled along with the deceased, was examined before the Tribunal and in his deposition, he categorically stated



C.M.A.No.3905 of 2019

WEB COPY

that there is no traffic jam at the relevant point of time and the appellant/Transport Corporation's bus came from opposite direction and entered the wrong direction and dashed against the deceased van. Even the same was reiterated in the cross-examination at the instance of the appellant/Transport Corporation. Further, in order to prove the employment of the deceased, P.W.3 was examined. This Court perused the evidence of R.W.1, who is the driver of the appellant/Transport Corporation's bus, however, as against him, already a criminal case was registered at the instance of P.W.2 and charge sheeted. Hence, his evidence is not useful to arrive any conclusion with regard to negligence. Hence, the Tribunal fixed the negligence on the part of the appellant/Transport Corporation, which cannot be interfered with.

8. Further, at the time of death, the deceased was aged about 29 years and the accident happened in the year 2013. Therefore, by applying the ratio laid down by the Hon'ble Apex Court in the cases of *Syed Sadiq Vs. United India Insurance Company* reported in **2014 (1) TANMAC 459** and



C.M.A.No.3905 of 2019

National Insurance Company Limited Vs. Pranay sethi and others

reported in **2017 (16) Supreme Court Cases 680**, the Tribunal awarded compensation under various heads, which is just and reasonable and the same cannot be interfered with.

9. Accordingly, the civil miscellaneous appeal is dismissed and the award and decree dated 29.09.2016 passed by the Special District Judge, Motor Accidents Claims Tribunal, Dharmapuri in M.C.O.P.No.494 of 2014 is confirmed. There shall be no order as to costs in the present appeal. Consequently, the connected miscellaneous petition is closed.

17.11.2023

Index : Yes / No
Speaking Order / Non-speaking order
Neutral Citation Case : Yes / No
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To

1.The Special District Judge,
Motor Accidents Claims Tribunal,
Dharmapuri.

Page No.7 of 8



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C.M.A.No.3905 of 2019

M.DHANDAPANI,J.,

sp

2.The Section Officer,
V.R. Section,
High Court, Madras.

C.M.A.No.3905 of 2019

17.11.2023