



C.M.A(MD)No.690 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
and
THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.M.A(MD)No.690 of 2020
and
C.M.P.(MD)Nos.8757 and 2947 of 2021 and 7028 of 2020

Managing Director
State Transport Corporation,
No.2, Pallavan Salai,
Chennai.

... Appellant/ Respondent

-VS-

1.K.Krishnavani
2.J.Hemalatha
3.K.Karthick
4.K.Sivasankaran

... Respondents/Claimants

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicle Act, 1988, against the order passed in MCOP.No.226 of 2017, on the file of the MACT (Sessions Judge, Mahila Court), Pudukottai, dated 19.12.2019.

For Appellant : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.R.Maheswaran



C.M.A(MD)No.690 of 2020

WEB COPY

JUDGMENT

[Order of the Court was made by RMT.TEEKAA RAMAN, J.]

This Civil Miscellaneous Appeal is directed against the order passed in MCOP.No.226 of 2017, on the file of the Motor Accident Claims Tribunal (Sessions Judge, Mahila Court), Pudukottai, dated 19.12.2019.

2. The appeal is preferred by the Transport Corporation to the limited extent on the point of quantum of compensation. The respondents 1 to 4 herein filed M.C.O.P.No.226 of 2017 and the pleadings that due to the rash and negligent driving of the driver of the Transport Corporation, the accident has taken place and at the time of the accident, her husband was working as Senior Head Messenger in the State Bank of India at Alangudi Branch.

3. Before the Tribunal, the first claim petitioner examined herself as P.W.1 and her son was examined as P.W.3 and P.W.2 is the Officer attached to the Bank, where the deceased was employed and marked Ex.P.1 to Ex.P.6. On behalf of the Transport Corporation, the driver was examined as R.W.1. On consideration of both oral and documentary evidence, the Tribunal held that the accident has taken



C.M.A(MD)No.690 of 2020

place due to the rash and negligent driving of the driver of the bus and ascertained the compensation at Rs.44,56,227/- with proportionate costs. Hence, the appeal.

4. Heard the learned counsel on either side and perused the material records of the case.

5. On the memorandum of grounds of appeal, we find that there is a plea raised by the Transport Corporation to the limited extent of negligence. At this juncture, our attention has been drawn to the evidence of P.W.3, who is the son of the deceased, had accompanied the deceased while they were walking, had witnessed the accident, where, he saw offending vehicle, ran over his father and he has also lodged Ex.P.1 before the police and after the investigation, charge sheet has been laid against the driver of the bus.

6. The learned counsel for the appellant/Transport Corporation has emphasized upon the evidence of R.W.1. On perusal of Ex.P.1-FIR, the criminal law was set into motion, at the earliest point of time by none other than P.W.3, Sivasankaran, who had accompanied the deceased on the date as a pedestrian.



C.M.A(MD)No.690 of 2020

Ex.P.1 indicates that the First Information Report has been filed against the driver of the Transport Corporation and hence, we find that the evidence of R.W.1 is only a self serving statement to save himself and hence, the statement has to be analyzed with caution. It remains to be stated that during the cross examination, R.W.1 has categorically admitted that after the accident, he ran away from the scene and went out of Tamil Nadu and stayed in Bangalore and hence, we find that the evidence of R.W.1 cannot be taken in the back top of the case that P.W.3 has immediately lodged the complaint as Ex.P.1-FIR which clearly indicates the version and duly corroborated by the oral evidence of P.W.3 and hence, the findings rendered by the Tribunal on the rash and negligent driving on the part of the driver of the Transport Corporation is hereby confirmed.

7. On the point of quantum of compensation, we find that P.W.2 was examined and through him Ex.P.5 and Ex.P.6 were marked. Ex.P.5 is the authorisation letter given by the Branch Manager of the Bank. Ex.P.6 is the pay certificate statement with P.F. statement. Based upon Ex.P.6, the Tribunal has rightly come to the conclusion that the income of the deceased has rightly fixed at Rs.43,638.71/- and the annual income is at Rs.5,23,828.58/- and necessary future prospects is properly adopted as per *Pranay Sethi's case* and the multiplier has



C.M.A(MD)No.690 of 2020

been adopted by the following decision of *Sarala Verma's case* and deduction is also properly made and hence, the pecuniary loss ascertained by the Tribunal at Rs.40,66,227/- does not suffer from any material evidence and we find that after awarding the cost of consortium for four persons at Rs.1,60,000/-, for the loss of love and affection another Rs.2,00,000/- has been awarded by the Tribunal, the claim which is in excess. Accordingly, except the amount awarded and the loss of love and affection to the extent of Rs.2,00,000/- as stated supra is hereby reduced. The award amount is confirmed in all other aspects.

8. Accordingly, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is reduced from Rs.44,56,227/- to Rs.42,56,227/-. The appellant/Transport Corporation is directed to deposit the modified award amount of Rs.42,56,227/- along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, together with costs awarded by the Tribunal, less the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. Excess amount, deposited if any, shall be refunded to the appellant/Transport Corporation. On such deposit being made, the claimants are permitted to withdraw their modified award amount along with interest and costs as per the



C.M.A(MD)No.690 of 2020

ratio of apportionment made by the Tribunal, less the amount if any already withdrawn by them, after filing appropriate application before the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

[T.K.R., J.] [P.B.B., J.]

08.11.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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C.M.A(MD)No.690 of 2020

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To

- 1.The Motor Accident Claims Tribunal,
The Sessions Judge, Mahila Court, Pudukottai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A(MD)No.690 of 2020

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