



C.M.A(MD)No.624 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2023

CORAM:

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

**C.M.A(MD)No.624 of 2020
and
C.M.P.(MD)Nos.6509 of 2020 and 11922 of 2023**

Managing Director,
Tamil Nadu State Transport Corporation,
Karaikudi

... Appellant/Respondent

-VS-

1.Jhansirani
2.Minor Asitha
3.Rakku Nambu
4.Muniyandi

... Respondents / Claimants

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, against the order passed in MCOP.No.84 of 2018 on the file of the MACT (Principal District and Sessions Court), Ramanathapuram, dated 24.07.2019.

For Appellant : Mr.P.M.Vishnuvarthan

For Respondents : Mr.J.M.Hassanul Bazari



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JUDGMENT

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

The Transport Corporation is the appellant herein. Challenging the award passed in M.C.O.P.No.84 of 2018 dated 24.07.2019 by the Motor Accident Claims Tribunal cum Principal District and Sessions Court, Ramanathapuram, the appellant/Transport Corporation has filed the above appeal on the ground of negligence and quantum.

2. For the sake of convenience, the parties are referred to herein as per their ranking before the Tribunal.

3. The respondents 1 to 4/claim petitioners have filed a claim petition before the Motor Accident Claims Tribunal, Principal District and Sessions Court, Ramanathapuram in M.C.O.P.No.84 of 2018 seeking compensation for the death of the husband of the first claim petitioner, namely, Namburamalingam, who died on 04.12.2017 in the road accident.



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4. Before the Tribunal, the first claim petitioner was examined as P.W.1 and the occurrence witness was examined as P.W.2 and Ex.P.1 to Ex.P.13 were marked.

5. The Transport Corporation filed a counter statement disputing the negligence on the part of the driver of the bus and also claimed that at the time of the accident, the deceased was not wearing helmet and during the trial, the conductor was examined as R.W.1, Subramani and no document was marked.

6. Considering the oral and documentary evidence, the Tribunal has come to the conclusion that at the time of the accident, the deceased was not wearing the helmet and also held that he is a contributory to the accident at 15% and 85% negligence is fixed on the part of the driver of the bus. Based upon the documentary evidence, the Tribunal has come to the conclusion that the deceased was an approved Electrical Contractor and was doing work at Agriculture University and accordingly, awarded the compensation and hence, the appeal.

7. Heard the learned counsel for the respondents.



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8. After perusing the version of P.W.2-Muniyandi, the occurrence witness, he had categorically deposed that on the date of the accident, ie., on 04.12.2017, the bus driven by the driver of the Transport Corporation was rash and negligent and dashed against the two wheeler and also admitted that at the time of the accident, the deceased was not wearing helmet. On the side of the Transport Corporation, R.W.1-Conductor was examined. However, we find that during the cross examination, he has fairly admitted that at the time of the accident, he has not witnessed the accident as he was issuing the ticket at the rear end of the bus and hence, we find that based upon the oral evidence of P.W.2, with regard to the manner of the accident, which remains unchallenged in the cross examination and in the absence of any postive evidence being adduced by the Transport Corporation, the Tribunal has rightly come to the conclusion that the accident has taken place due to the rash and negligent driving of the driver of the Transport Corporation as the deceased was not wearing helmet, 50% of contributory negligence was fixed on the deceased. Hence, such a finding rendered by the Tribunal is well considered and well merited does not warrant any interference by us as the same does not suffer from any irregularity or illegality.

9. On the point of quantum of compensation, heard both sides.



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10. It appears from the evidence of Ex.P.8, Ex.P.10 and Ex.P.13, the Tribunal has rightly fixed the income of the deceased based upon Ex.P.10 at Rs.3,00,000/- and based upon the Pan Card as well as the Income Tax Returns, it is fixed the age of the deceased and accordingly, adopted the age 40 and multiplier of 15 as per the *Sarla Verma's Case* and 40% has been given as future prospects as per the *Praneysethi's Case* and also for consortium Rs.40,000/- each was given, for funeral and transport expenses, Rs.50,000/- was added and thereupon, 1/3rd deduction is duly given and hence, we find that on the point of quantum of compensation also the award passed by the Tribunal is bound to be in accordance with law and accordingly, we do not find any merits in this appeal.

11. Accordingly, this Civil Miscellaneous Appeal is dismissed and the award dated 24.07.2019 passed in M.C.O.P.No.84 of 2018 on the file of the Motor Accident Claims Tribunal, Principal District and Sessions Court, Ramanathapuram, is confirmed. The Transport Corporation is directed to deposit the balance amount with interest and costs, less the amount already deposited if any, within a period of eight weeks from the date of receipt of a copy of this judgment and on such deposit being made, the respondents 1 to 4/claimants are permitted to withdraw their shares together with interest and costs on due



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WEB COPY application before the Tribunal. No costs. Consequently, connected Miscellaneous Petitions are closed.

[T.K.R., J.] [P.B.B., J.]
20.11.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SJI

To

- 1.The Principal District and Sessions Court,
Motor Accident Claims Tribunal,
Ramanathapuram.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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