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Civil Miscellaneous Appeal No.1742 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1742 of 2024

and

C.M.P.No.13835 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation,
Situated at No.12, Ramakrishna Road,
Salem Division.

... Appellant

Vs.

1.Anjali
W/o.Anbalalagan

Lakshmi (died)
W/o.Narayanan

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.09.2022 made in M.C.O.P.No.514 of 2019 on the file of Motor Accident Claims Tribunal, III Additional District Court, Villupuram, Kallakurichi.

For Appellant : Mr.D.Nitin



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JUDGMENT

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The appellant transport corporation, aggrieved by the award passed by the Motor Accident Claims Tribunal, III Additional District Court, Villupuram, Kallakurichi, in M.C.O.P.No.514 of 2019, dated 22.09.2022, has filed this appeal.

2. The claimants, who were mother and grandmother of deceased Surya, filed the claim petition on the ground that on 29.05.2019, the deceased Surya was riding a two wheeler from Ulakangathan village towards Neelamangalam at the Kallakurichi - Chennai bypass road and at about 10.45 p.m., when the vehicle was crossing a bridge, the bus belonging to the appellant transport corporation was driven in a rash and negligent manner and it dashed on the two wheeler, as a result of which the deceased sustained grievous injuries and he died on the spot. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a



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conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the appellant transport corporation. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.12,74,600/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	12,09,600/-
2.	Loss of love and affection to the 1st petitioner	25,000/-
3.	Funeral expenses	25,000/-
4.	Loss of estate	15,000/-
	Total	12,74,600/-

The above compensation was directed to be paid along with interest at 7.5% p.a.

4. The transport corporation, aggrieved by the award passed by the Tribunal both on the question of negligence as well as quantum, has filed the present appeal before this Court.



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5. Heard Mr.D.Nitin, learned counsel for appellant transport corporation.

6. This Court carefully considered the submissions made by learned counsel for appellant transport corporation and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.

8. Insofar as the issue of negligence is concerned, the Tribunal has considered the evidence of PW-2, who was the eye witness in this case. The Tribunal also took into consideration Ex.P1 - First Information Report, Ex.P4 - Motor Vehicle Inspector Report and also the evidence of RW-1, who was the driver of the bus. The Tribunal found that the eye witness account of PW-2 was not discredited and took an adverse inference against the driver of the offending vehicle on the ground that he has not preferred any complaint if really there was negligence on the part of the deceased. Ultimately, the Tribunal came to a conclusion that the negligence is attributable only to the driver of the offending vehicle.



9. Insofar as compensation is concerned, the deceased was aged about 22 years and he was working as a coolie. The accident had taken place during the year 2019. Hence, the Tribunal has fixed the notional monthly income at Rs.8,000/- and added 40% towards future prospects. The compensation fixed under the head 'loss of income'/'loss of dependency' is very reasonable. The Tribunal has also deducted 1/2 towards personal expenses of the deceased. The compensation awarded under the other heads is reasonable and it does not require the interference of this Court. This Court does not find any merits in this appeal.

N.ANAND VENKATESH, J.



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petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment.

11. The only claimant, who is now surviving, is the mother of the deceased. Hence, on deposit of compensation amount, she will be entitled to withdraw the same.

In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

23.07.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To
The Motor Accident Claims Tribunal,
III Additional District Court, Villupuram,
Kallakurichi.

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