



CMA No.909 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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CORAM :

THE HONOURABLE **MR.JUSTICE RMT.TEEKAA RAMAN**

C.M.A.No.909 of 2021
and C.M.P. No.5218 of 2021

Judgment reserved on 07.02.2024	Judgment pronounced on 19.03.2024
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The Managing Director
Andhra Pradesh State Road Transport
Corporation Limited,
Chittoor, Andhra Pradesh.

..

Appellant

Vs.

1.Aruna
2.Ganesan

..

Respondents

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 23.09.2019 made in MCOP No.1346 of 2018 passed by the Sessions Judge (FTMC), Krishnagiri.

For Appellant : Mrs.G.V.Shoba

For Respondents : No appearance



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JUDGMENT

The appellant/Transport Corporation has filed the present appeal challenging the award passed by the Tribunal dated 23.09.2019 made in MCOP No.1346 of 2018 passed by the Sessions Judge (FTMC), Krishnagiri, on the ground of liability as well as quantum.

2. The respondents are the parents of the deceased Tamillasaran. They filed MCOP No.1346 of 2018 claiming compensation for the death of said Tamillasaran who died in the road transport accident happened on 25.04.2018.

3. The appellant/Transport Corporation filed counter disputing the negligence on the part of the driver of the Transport Corporation and also the various damages claimed in the claim petition.

4. On behalf of the respondents, first respondent examined himself as PW1 and Munusamy as well as Venkatachalam, eye-witnesses to the accident were examined as PW2 & PW3 respectively and Exs.P1 to P11 were marked.



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On behalf of the respondents, one Baskar was examined as RW1 and no exhibits were marked.

5. The Trial Court, based upon the oral and documentary evidence came to the conclusion that the accident has taken place due to the rash and negligent driving by the driver of the Transport Corporation and held that the Transport Corporation is liable to pay the compensation and accordingly awarded a sum of Rs.11,01,000/- as compensation payable to the respondents.

6. Heard the learned counsel appearing for the appellant/Transport Corporation. Though notice has been served on the respondents and their names are printed in the cause list, there is no representation for them.

7. From the documentary evidence Ex.P1-FIR and from the answers elicited from the cross examination of RW1-driver of the bus, after investigation, police have filed charge sheet against the driver of the bus (RW1) before the learned Magistrate Court. Taking into consideration, the oral and documentary of PW2 & PW3, coupled with documentary evidence of Ex.P1 alongwith admission of RW1, has come to the conclusion that the



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accident has taken place due to the rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation.

8. It remains to be stated that it is the specific evidence of PW2 & 3 that the bus driver drove the bus belonging to the appellant/ Transport Corporation in a rash and negligent manner, without following the rules of the road and without sounding horn, came in a high speed without noticing the two-wheeler driven by the deceased and while overtaking the lorry, suddenly dashed on the vehicle of the deceased and thereby caused the accident. Hence, this Court finds that the evidence of PW2 & 3 are found to be natural, coupled with the admission of RW1, the charge sheet filed before the Magistrate Court against the driver of the bus and the manner of accident spoken by the eye-witnesses to the accident, viz PW2 & PW3. Further, the version of **RW1** in the chief examination is only a self-serving statement in order to escape from the criminal prosecution and hence the finding of the Trial Court that the accident has taken place due to the rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation is hereby confirmed.



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9. On the point of quantum of compensation, I find that the deceased was said to have been working as a driver cum cleaner of Ashok Leyland Super ACE and earning Rs.25,000/- per month. On the date of accident, the deceased was aged 25 years as per Ex.P2 – postmortem certificate. In the death certificate – Ex.P3, the age of the deceased is mentioned as 27 years and accordingly, the Tribunal has rightly fixed the age of the deceased as 25 years and applied multiplier 17, as per **SARLA VERMA & OTHER v. Delhi Transport Corporation & Another reported in 2009 (2) TNMAC (1) SC** and granted 40% enhancement towards future prospects as per judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others reported in 2017 (2) TNMAC 609**. In the absence of any documentary evidence to prove the income of the deceased, the Tribunal rightly fixed a sum of Rs.7500/- per month as notional income of the deceased. Since the deceased died as bachelor, the Tribunal deducted 50% towards personal expenses and awarded a sum of Rs.11,01,000/- as compensation which appears to be just and fair and does not warrant any interference by this Court.



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WEB COPY 10. In fine,

(i) this Civil Miscellaneous Appeal is dismissed confirming the compensation awarded by the Tribunal dated 23.09.2019 made in MCOP No.1346 of 2018 passed by the Sessions Judge (FTMC), Krishnagiri.

(ii) the appellant/Transport Corporation is directed to deposit the award amount before the Tribunal alongwith interest and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the respondents /claim petitioners are permitted to withdraw the award amount on the basis of apportionment fixed by the Tribunal, less the amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) No costs. Consequently, connected Miscellaneous Petition is closed.

19 .03.2024

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Index : Yes/No

Neutral Citation:Yes/No

Speaking Order: Yes/No

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RMT.TEEKAA RAMAN. J,

rgr

To

1. The Sessions Judge (FTMC),
Motor Accident Claims Tribunal,
Krishnagiri.
2. The Section Officer,
V.R.Section, High Court,
Madras.

Judgment made in
C.M.A.No.909 of 2021

19.03.2024