



C.M.A.No.3219 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3219 of 2021

And

C.M.P.No.18375 of 2021

The Regional Manager,
Andhrapradesh State Road Transport Corporation,
Chittoor District,
Andhrapradesh State.

... Appellant

Vs.

1.Muni Rabhi
2.Shoka Tali
3.Afrin
4.Rukiya @ Rukbyabi
5.Sumaiya
6.Minor.Khalid
7.Minor.Hamna
(Minors P6 and P7 are rep. by their NF/Mother/1st petitioner)
8.RoshanBee
9.Himan Saheb @ Baba Imam

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order passed by the Motor Accidents Claims Tribunal, Special District Judge, Krishnagiri in M.C.O.P.No.937 of 2019 dated 04.01.2021.



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For Appellant : Ms.G.V.Shoba
For Respondents : No Appearance

J U D G M E N T

The respondent before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed against the judgment and decree dated 04.01.2021 passed by the Motor Accidents Claims Tribunal, Special District Judge, Krishnagiri, in M.C.O.P.No.937 of 2019.

2.The learned counsel appearing for the appellant submitted that the dependants of the deceased filed claim petition before the Motor Accidents Claims Tribunal claiming compensation of Rs.1 Crore alleging that on 20.07.2018 at about 18.30 hours, the deceased Chan Basha was riding the motorcycle bearing Registration No.TN 29 R 1569 near Chalarapalli Cross, Kuppam. At that time, the bus bearing Registration No.AP 28 Z 3768 belonging to the appellant which came in the same direction was driven by its driver in a rash and negligent manner and dashed behind the motorcycle, due to which the deceased fell down and the front wheel of the bus ran over the deceased and the deceased died on the spot.



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3.The learned counsel appearing for the appellant further submitted that after adjudication, the Tribunal fixed 10% negligence on the deceased and arrived at a total compensation of Rs.19,02,200/- and awarded a sum of Rs.17,11,800/- (90% of the total compensation) as compensation to the claimants along with interest at 7.5% p.a. from the date of petition i.e., 26.04.2019 till the date of deposit with proportionate costs and directed the appellant to deposit the amount.

4.The learned counsel appearing for the appellant further submitted that aggrieved by the fastening of liability on the appellant as well as the quantum of compensation awarded to the claimants, this appeal has been filed. The learned counsel further submitted that R.W.1 – driver of the bus belonging to the appellant, has clearly deposed that the deceased was riding the motorcycle and abruptly stopped the motorcycle in the front side of the bus, however, the law enforcing agency registered case against the driver of the bus and the Tribunal fastened 90% liability on the appellant which is not sustainable one.



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5.The learned counsel appearing for the appellant further submitted that the deceased was 42 years at the time of accident and without any income proof, the Tribunal fixed a sum of Rs.9,000/- as the notional income of the deceased which is highly excessive and further submitted that some of the children of the deceased are married and they are not the dependants of the deceased, however, the Tribunal awarded parental consortium of Rs.40,000/- each, which is highly excessive and prayed for reduction in the quantum of compensation.

6.Heard the learned counsel appearing for the appellant. Though notice was served on the respondents, there is no representation for the respondents. Considering the pendency of the civil miscellaneous appeal, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

7.The accident is not disputed. Inorder to prove the case, the first respondent examined herself as P.W.1 and also examined one eye witness as P.W.2 and marked Ex.P1 to Ex.P.18. The appellant examined R.W.1 – Driver of the bus and marked no exhibits. Though



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the appellant examined R.W.1 before the Tribunal, in order to disprove the case, the appellant Insurance Company did not examine any independent eye witness. R.W.1 is not independent eye witness and he is the interested witness and his evidence is not worthwhile. In the absence of any worthy contra evidence, the Tribunal after considering all the factual aspects, fixed 10% negligence on the deceased and 90% negligence on the driver of the bus belonging to the appellant, which warrants no interference.

8.Insofar as the quantum of compensation is concerned, the accident of the year 2018. Even without any income proof, a sum of Rs.15,000/- could be fixed as the notional income of the deceased, however, the Tribunal has fixed only a sum of Rs.9,000/- as the notional income of the deceased and even assuming some of the legal heirs of the deceased are married, even the married children of the deceased are entitled for parental consortium. Hence, in the opinion of this Court, the quantum of compensation awarded by the Tribunal is just and reasonable and therefore, the impugned judgment warrants no interference.



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M.DHANDAPANI,J.
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9.The civil miscellaneous appeal is dismissed. The judgment and decree dated 04.01.2021 passed by the Motor Accidents Claims Tribunal, Special District Judge, Krishnagiri, in M.C.O.P.No.937 of 2019, is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

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

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