



C.M.A.No.2928 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 5/11/2024

C O R A M

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.2928 of 2024

a n d

C.M.P.No.24405 of 2024

The Managing Director
Tamil Nadu State Transport
(Salem Division) Corporation Ltd
No.12 Ramakrishna Road
Salem 7.

...

Appellant

Vs

1. Lalitha
2. Poomalai
3. Prabakar

...

Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the judgment and decree dated 4/11/2023 passed in M.C.O.P.No.803 of 2023 by the Motor Accidents Claims Tribunal, Special District Court, Salem.

For appellant

...

Mr.D.Nitin

J U D G M E N T



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This Civil Miscellaneous Appeal has been filed to set aside the judgment and decree dated 4/11/2023 passed in M.C.O.P.No.803 of 2023 by the Motor Accidents Claims Tribunal, Special District Court, Salem.

2. It is the case of the appellant that an accident had occurred on 13/3/2023, at about 6.20 p.m., while the deceased Yuvaraj was riding a two wheeler bearing Registration No.TN-41-S-1726 along with one Vasanthaprasath as pillion rider in Valappady – Attur main road from west to east near Vellaiyamma Irusayee Koil, a bus bearing Registration No.TN-30-N-1926 hit against the two wheeler, due to which the said Yuvaraj sustained grievous injuries and he died in Government Hospital, Valappady. Parents and brother of the deceased filed a claim petition, seeking compensation of Rs.30 lakhs before the Special District Judge, Motor Accidenets Claims Tribunal, Salem.

3. Before the Tribunal, during trial, in order to prove the case, the claimants have examined PW1 and marked Exs.P1 to P.11, and on the side of the Insurance Company, no witness was examined and no documents have been marked. The Tribunal, considering the pleadings, oral and documentary evidence, partly allowed the petition and awarded a sum of



11,65,000/- as compensation to the claimants along with interest at 7.5% p.a.

Aggrieved by the said award, the appellant/insurance company has filed the present appeal before this Court for quashment of the award.

4. The learned counsel for the appellant/insurance company submitted that the rider of the two wheeler came in a rash and negligent manner without driving licence and helmet. Therefore, the appellant is not liable to pay compensation.

5. Heard the learned counsel for the appellant/insurance company and also perused the materials available on record.

6. Admittedly, age of the deceased was 21 years as per the Aadhaar card. It is pleaded before the Tribunal that the deceased was earning not less than Rs.30,000/- p.m., but no proof of income was produced. Hence fixed notional income as Rs.10,000/-. Though the deceased did not wore the helmet, to prove the same, the appellant Insurance Company had not produced any evidence. No eye witness was examined. In such a view of the matter, the appellant Insurance Company is vicariously liable to pay the compensation to the claimants. In view of the above, this Court feels that



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the Tribunal has rightly considered the matter and given the reasoning in perfect. Hence, the same does not require any interference by this Court and the same is confirmed.

7. In the result, the Civil Miscellaneous Appeal is dismissed and a sum of Rs.11,65,000/- awarded by the Tribunal as compensation to the claimants are hereby confirmed. The appellant insurance company is directed to deposit the entire amount awarded by the Tribunal along with interest at the rate of 7.5% per annum, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw the compensation as awarded by the Tribunal along with interest and costs, less the amount, if any, already withdrawn, by filing an appropriate application before the Court concerned. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No

Neutral Citation: Yes/No

To



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1. The Motor Accidents Claims Tribunal, Special District Court, Salem.

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Today, this matter has come up under the caption “For Being Mentioned”, at the instance of this Court.

2. It is brought to the notice of this Court that in para Nos.3 to 7 of the order dated 5/11/2024, instead of appellant/Transport Corporation, it has been inadvertently typed as appellant Insurance Company.

3. This Court perused the order and finds that instead of appellant/Transport Corporation, it has been inadvertently typed as appellant Insurance Company.

4. Accordingly, wherever, the words appellant Insurance Company is found in para Nos.3 to 7 of the order, the same shall be replaced with appellant Transport Corporation.

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5. Registry is directed to carry out the aforesaid correction and issue fresh order copy to the parties.

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