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CMA.No.1109 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1109 of 2023 and
C.M.P.No.10717 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation
Coimbatore Limited,
No.37, Mettupalayam Road,
Coimbatore.

... Appellant

VS.

1. D. Makeswari
2. C. Chandirika
3. D. Sakthivel

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 08.12.2021 in M.C.O.P.No.878/2018 on the file of the Motor Accident Claims Tribunal cum Additional District and Sessions Court, Tiruppur.

For Appellant : Mr.M. Murali Vinodh

For Respondents: Mr. Ma.P.Thangavel

J U D G M E N T



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Questioning the quantum of compensation awarded to the claimants by the Tribunal, the present appeal is filed by the Managing Director, Tamil Nadu State Transport Corporation Limited, Coimbatore.

2. The respondents/claimants filed a claim petition in M.C.O.P.No.878/2018 under Section 166 of the Motor Vehicles Act before the Presiding Officer, Motor Accident Claims Tribunal, Tiruppur, seeking compensation of Rs.30,00,000/- for the death of one Prabakaran (husband of the first respondent and father of the respondents 2 and 3) in a road accident that took place on 11.12.2017.

3. The case of the claimants is that on 11.12.2017 Devaraj (deceased) was riding his two wheeler bearing Registration Number TN 39 S 8425 on Mettupalayam-Avinasi Road. When he was nearing Kanur Main Road, a bus bearing Registration Number TN 39 N 0096 belonging to the appellant State Transport Corporation Limited hit the two wheeler, as a result of which Devaraj fell down and sustained injuries all over his body. He was immediately rushed to KMCH Hospital, Coimbatore. However, he succumbed to injuries on the same day.



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4. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration Number TN 39 N 0096 belonging to the Tamil Nadu State Transport Corporation, was the cause of the accident and therefore the Transport Corporation is liable to pay compensation to them.

5. The appellant State Transport Corporation Limited contested the claim petition by filing its counter.

6. The Tribunal, after analysing the evidence on record, fixed the notional monthly income of the deceased as Rs.12,000/- in the absence of income proof and directed the appellant Transport Corporation to pay a total compensation of Rs.12,44,035/- to the claimants, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation.

7. Aggrieved over the quantum of compensation awarded by the



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Tribunal, the present appeal is filed by the State Transport Corporation.

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8. Heard Mr.M. Murali Vinodh, learned counsel for the appellant and Mr. Ma.P.Thangavel, learned counsel for the respondents.

9. Mr.M. Murali Vinodh, learned counsel for the appellant State Transport Corporation Limited contended that the Tribunal had fixed the notional monthly income of the deceased as Rs.12,000/- even though no income proof was adduced by the claimants. He therefore, prayed for scaling down the Award amount passed by the Tribunal.

10. Per contra, Mr. Ma.P. Thangavel, learned counsel for the respondents contended that the Award passed by the Tribunal is based on the well laid down principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed.

11. In the claim petition it is stated that the deceased was a farmer earning a sum of Rs.12,000/- per month and he was aged about 55 years. Since the accident took place in the year 2017, the notional



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monthly income was fixed by the Tribunal as Rs.12,000/- and I do not find any infirmity in this regard. The Tribunal had also awarded 10% towards future prospects as per the decision of the Supreme Court of India in ***National Insurance Co. vs Pranay sethi and others*** reported in **2017 (2) TNMAC 601** and adopted proper multiplier as per the decision rendered in ***Sarla Verma and others vs. Delhi Transport Corporation and another*** reported in **(2009) 6 SCC 121**. The Tribunal has thus awarded just compensation and therefore, no interference is called for by this Court.

12. In the result,

- i. The Civil Miscellaneous Appeal stands dismissed. No costs. Consequently connected miscellaneous petition is closed.
- ii. The orders passed in M.C.O.P.No.878 of 2018 dated 08.12.2021 by the Presiding Officer, Motor Accident Claims Tribunal, Tiruppur, is upheld.
- iii. The appellant Tamil Nadu State Transport Corporation Coimbatore



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Limited, is directed to deposit the compensation amount awarded by the Tribunal i.e., Rs.12,44,035/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.878 of 2018 on the file of the Presiding Officer, Motor Accident Claims Tribunal, Tiruppur, within a period of four weeks from the date of receipt of a copy of this order.

iv. On such deposit being made, the respondents / claimants are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

28.08.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
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To



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1. Presiding Officer, Motor Accident Claims Tribunal, Tiruppur
2. The Section Officer,
VR Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

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