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C.M.A.No.2959 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**C.M.A.No.2959 of 2024
and C.M.P.No.24653 of 2024**

The Managing Director,
Tamil Nadu State Transport Corporation,
Coimbatore Limited,
Erode.

... Appellant / Respondent

Vs.

Kamalam

... Respondent/Petitioner

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 14.10.2022 made in M.C.O.P.No.161 of 2020 on the file of the Exclusive Motor Accident Claims Tribunal, Presiding Officer, Tirupur.

For Appellant : Mr.M.Murali Vinodh

For Respondent : Mr.Ma.P.Thangavel



C.M.A.No.2959 of 2024

WEB COPY

J U D G M E N T

This appeal has been filed challenging the judgment and decree dated 14.10.2022 passed in M.C.O.P.No.161 of 2020 on the file of the Exclusive Motor Accident Claims Tribunal, Presiding Officer, Tirupur.

2. The facts of the case are that on 12.06.2019 at about 18.40 hrs, when the deceased, Rajendiran was walking near Murugan Kinaru bus stop, Anthiyur on Bhavani to Andhiyur Road, a vehicle bearing Reg.No.TN 33 N 3308 was driven by its driver in a rash and negligent manner and hit against the deceased and he was taken to the Hospital, where he reported died. Thereby, the respondent/claimant, who is the mother of the deceased, has filed the claim petition before the Tribunal seeking compensation. The Tribunal has partly allowed the claim petition and awarded a sum of Rs.9,54,500/- together with interest at the rate of 7.5% per annum from the date of presentation of the petition till the date of realization to be paid by the appellant to the respondent. Challenging the same, the present Civil Miscellaneous Appeal has been filed.



C.M.A.No.2959 of 2024

WEB COPY

3. The learned counsel appearing for the appellant submits that the accident had occurred only due to the negligence of the deceased and no eye witness was examined to prove the negligence on the part of the bus. Further, the Tribunal ought not to have fixed negligence on the driver of the bus merely on the ground that FIR was registered against the driver of the bus. Further, the monthly income fixed by the Tribunal at Rs.9,000/- is on the higher side and the compensation awarded under the other heads is also very excessive. Hence, he prays for allowing this appeal.

4. The learned counsel appearing for the respondent submits that the Tribunal, taking into consideration the facts and circumstances of the case and the evidence placed before it, has rightly awarded the compensation of Rs.9,54,500/-, which does not require any interference by this Court.



C.M.A.No.2959 of 2024

WEB COPY

5. Heard the learned counsel appearing for the appellant Transport Corporation and the learned counsel appearing for the respondent.

6. The Tribunal considered the evidence of P.W.2 and R.W.1, who was the driver of the bus. P.W.2 deposed that the bus which was going towards north in a rash and negligent manner, hit the deceased who was coming from west, whereas, R.W.1 claimed that while the deceased attempted to cross the road, the accident had occurred. Further, RW-1 during his cross-examination deposed that the north-south road is a straight road and he was going from south to north. The Tribunal held that if the deceased had suddenly attempted to cross the road, the accident would have taken place on the western half of the north-south road and not on the center of the north-south road as indicated in the rough sketch prepared by the Police, which would show that the deceased had almost crossed the western half of the north-south road, when he was hit by the bus and it went against the claim of the respondent. Further, no passengers or any independent



C.M.A.No.2959 of 2024

WEB COPY

witnesses was examined to prove that the accident occurred only due to the negligence of the deceased. Hence, the negligence was rightly fixed on the driver of the bus. This finding does not suffer from any illegality and it cannot be interfered with.

7. In respect of quantum of compensation, the deceased was aged about 48 years at the time of accident and was a Coolie and the Tribunal, taking into consideration the nature of work, fixed the monthly income of Rs.9,000/- per month, though the respondent/claimant has not produced any proof to prove the income, since as a Agricultural labour or labourer in the construction industry, a person would easily earn a sum of Rs.300/- per day and thereby, after deducting $\frac{1}{2}$ towards personal expenses and adopting the multiplier of '13', and adding 25% future prospects towards monthly income, the Tribunal rightly arrived the loss of dependency at Rs.8,77,500/-. The compensation awarded under the heads 'funeral expenses', 'loss of estate' and 'loss of consortium' is just and reasonable and does not require any interference of this Court.



C.M.A.No.2959 of 2024

8. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.11.2024

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

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To

1. The Exclusive Motor Accident Claims Tribunal,
Presiding Officer, Tirupur.

2. The Section Officer,
V.R. Section,
High Court,
Chennai.

Page 6 of 7



WEB COPY



C.M.A.No.2959 of 2024

M.DHANDAPANI, J.

ssb

C.M.A.No.2959 of 2024

13.11.2024