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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.797 of 2024
and CMP No.7405 of 2024

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Viruthampet
Vellore

..Appellant

.VS.

1.Shanthi

2.Minor Rathi

3.Minor Sarala

4.Minor Venkatesan

[Minors are represented by their N.F.Mother, Shanthi]

5.Chinnaponnu

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173(1) of Motor Vehicles Act, to set aside the judgment and decree dated 03.09.2019 made in MCOP No.94 of 2014 on the file of Motor Accident Claims Tribunal, Subordinate Judge, Vaniyambadi.



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For Appellant : Mr.C.R.Sureshkumar

ORDER

This civil miscellaneous appeal has been filed by the Transport Corporation against the Award passed by the Motor Accidents Claims Tribunal, Vaniyambadi in MCOP No.94 of 2014, dated 03.09.2019.

2.On 17.03.2014, the deceased was proceeding to Vaniyambadi as a pillion rider in a moppet which was driven by his friend. The bus belonging to the Transport Corporation was driven in a rash and negligent manner, as a result of which the rider of the two wheeler lost his control and the bus dashed against the two wheeler resulting in both the rider as well as the pillion rider thrown out of the vehicle. Unfortunately, the pillion rider succumbed to the injury.

3.The claimants who are the wife, three minor children and the mother filed the claim petition before the Tribunal seeking for compensation. The Tribunal had fixed a total compensation of Rs.15,27,300/- in the following manner:



Loss of Dependency	Rs.29,37,600.00
Funeral Expenses	15,000.00
Loss of love and affection to the petitioners	50,000.00
Loss of consortium for the 1 st petitioner	50,000.00
Ambulance receipt as per Ex.P15	2,000.00
Total	Rs.30,54,600.00
Contributory negligences of 50% = Rs.30,54,600 – 15,27,300/-	
	Rs.15,27,300/-

4.The Transport Corporation aggrieved by the above Award passed by the Tribunal has filed the present appeal.

5.The main ground that was urged by the learned counsel for the appellant Corporation is that the Tribunal has held that the accident did not take place only due to the rash and negligent driving by the driver of the bus and that the rider of the two wheeler had also contributed to the accident. However, the Tribunal had only fixed 50% as contributory negligence against the two wheeler and directed the Transport Corporation to pay the balance compensation to the claimants. The learned counsel submitted that the evidence available on record shows that there was a gap between the bus and the southern side of the road and if the two wheeler had been driven in a careful



manner, the rider of the two wheeler could have averted the accident by turning the vehicle to the left side. However, the driver of the bus came to be held to have driven the bus in a rash and negligent manner. In view of the same, the learned counsel sought for the interference with the Award passed by the Tribunal.

6. In the considered view of this Court, the accident had taken place in the year 2014 and the claim petition was filed in the year 2014. The Tribunal had passed the Award in the year 2019 on 03.09.2019. The appeal papers were returned to correct the defects and it was re-presented with an enormous delay of 1306 days. This was condoned by an order dated 27.02.2024. That apart, there was also a delay of 1512 days in paying the deficit Court fee. This was also condoned by an order dated 14.03.2024. However, since the deficit fee has been paid beyond the period of limitation, notice ought to have been given to the claimants. But due to oversight, the same was not done in this case.

7. On carefully reading the Award passed by the Tribunal, this Court finds that the Tribunal has given sufficient reasons as to why 50% of the negligence is attributed to the driver of the bus belonging to the Transport Corporation. Such a finding rendered by the Tribunal does not suffer from any infirmity or



illegality, warranting the interference of this Court.

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8.Considering the reasons assigned by the Tribunal and also considering the enormous delay in filing this appeal, this Court is not inclined to interfere with the Award passed by the Tribunal and the same is hereby, sustained.

9.In the result, this civil miscellaneous appeal stands dismissed.

02.04.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

The Motor Accident Claims Tribunal,
Subordinate Judge, Vaniyambadi.



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N. ANAND VENKATESH., J

SSR

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