



Civil Miscellaneous Appeal No.1029 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1029 of 2024
and CMPNo.9503 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation Limited
(TNSTC),
No.37, Mettupalayam Road,
Coimbatore – 641 043

... Appellant

Vs.

1. Akshatha

2. Ramachandraiah

3. Gangamma

4. Subramaniam

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award dated 17.02.2023 in MCOP No.99 of 2022 on the file of the Additional Motor Accident Claims Tribunal / Subordinate Judge, Mettupalayam and to dismiss the above claim as against the appellant.



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For Appellant : Mr.M.Murali Vinodh
For Respondents : R1 – Not ready in notice
R2 to R4 – Notice served
- No appearance

JUDGMENT

The Transport Corporation is the appellant in the present appeal questioning the award passed by the Additional Motor Accident Claims Tribunal / Subordinate Judge, Mettupalayam in MCOP No.99 of 2022 dated 17.02.2023.

2. The claimants, who are the wife and parents of the deceased Mahesh Kumar, filed the claim petition before the Tribunal on the ground that the deceased Mahesh Kumar was riding the two wheeler on 26.04.2022 along with his friend Baskar, who was the Pillion rider and at about 2.15 p.m. when the vehicle reached Esan Garden, the bus belonging to the transport corporation was driven in a rash and negligent manner from east to west direction and it hit the two wheeler. As a result of which, both the rider as well as the Pillion rider died on the spot due to



the serious injuries sustained by them. An FIR came to be registered in this regard in Crime No.159 of 2022. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for enhancement of compensation.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the bus driver belonging to the Transport corporation. The Tribunal having rendered such a finding, attributed 10% contributory negligence on the rider of the two wheeler on the ground that he was not wearing a head gear. Ultimately, the Tribunal arrived at a total compensation of a sum of Rs.31,89,000/-, out of which, 90% liability was attributed against the transport corporation and the Transport corporation was directed to pay a sum of Rs.28,70,000/- along with interest at the rate of 7.5% per annum.

4. Heard Mr.M.Murali Vinodh, learned counsel for appellant and carefully perused the materials available on record.



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5. This Court also carefully went through the award passed by the Tribunal.

6. It was contended that the Transport corporation had taken a very specific stand that the Driver of the bus drove the vehicle by following the rules and regulations and it is only the rider of the two wheeler, who came from the opposite direction, who had driven the vehicle in a rash and negligent manner and it dashed on the right side portion of the bus. As a result, the rider and the pillion rider were thrown away from the two wheeler and unfortunately, they died in the accident. It was therefore contended that there was absolutely no negligence on the part of the driver of the bus belonging to the transport corporation. Thus, the very liability of the transport corporation was put to challenge.

7. In the considered view of this Court, the Tribunal had appreciated the evidence of PW1 and PW2. The Tribunal found that the eye witness to the incident was not discredited during cross examination. That apart, the Transport corporation also did not examine any one from



their side to establish that there was no negligence on the part of the driver of the bus. Therefore, the Tribunal came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver belonging to the transport corporation. This finding rendered by the Tribunal does not suffer from any illegality. Therefore, the Tribunal has properly fixed the liability against the driver of the bus belonging to the transport corporation and there is no ground to interfere with the same.

8. Insofar as the compensation is concerned, it is seen that the accident had taken place in the year 2022. The deceased was aged about 21 years. He is said to be working in a Bakery. Considering the same, the Tribunal had fixed the monthly income at Rs.15000/-. The said notional income fixed by the Tribunal is reasonable and it does not require the interference of this Court. 40% was added towards the future prospects and 18 Multiplier has been adopted. That apart, $\frac{1}{3}^{\text{rd}}$ has also been deduced towards the personal expenses of the deceased. The Tribunal has granted compensation towards love and affection at the rate of Rs.44,000/- for each of the claimants. That apart, for the loss of property



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and funeral expenses, the Tribunal has fixed a sum of Rs.16,500/- towards each of these heads. The same is not exorbitant and it is reasonable and it does not require the interference of this Court.

9. In the light of the above discussion, this Court does not find any ground to interfere with the award passed by the Tribunal both on the ground of negligence as well as on the quantum of compensation. Accordingly, this Civil Miscellaneous appeal stands dismissed. The Appellant / Transport corporation is directed to deposit the entire compensation amount with interest, less the amount already deposited, within a period of six weeks from the date of receipt of a copy of this order. The same shall be withdrawn by the claimants in the manner indicated by the Tribunal in the order. No costs. Consequently, the connected miscellaneous petition is closed.

03.06.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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N.ANAND VENKATESH.,J
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To
Additional Motor Accident Claims Tribunal / Subordinate Judge,
Mettupalayam

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