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CMA.(MD)No.4 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 16/04/2024

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The Hon'ble Mr.Justice **G.ILANGOVAN**

CMA (MD) No. 4 of 2021

and

CMP (MD) No. 54 of 2021

The Managing Director,
Tamil Nadu State Express Transport
Corporation Ltd.,
Pallavan Salai,
Chennai.

: Appellant/Respondent

Vs.

1.Parvathi
2.Minor Sivapriya : Respondents/Petitioners
(2nd Minor Respondent represented
by her mother and next friend
1st respondent Parvathi)

PRAYER:-Civil Miscellaneous Appeal is filed under section 173 of the Motor Vehicles Act, 1988, to set aside the award and decree made in MCOP No.23 of 2017, dated 16/09/2019 on the file of the Motor Accident Claims Tribunal/Special District Court, Tiruchirappalli and pass such other or further orders.

For Appellant : Mr.P.Prabhakaran

For Respondents : Mr.R.Sakthivel



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J U D G M E N T

This Civil Miscellaneous Appeal is filed seeking an order to set aside the judgment and decree, dated 16/09/2019 passed in MCOP No.23 of 2017 by the Motor Accident Claims Tribunal/Special District Judge, Tiruchirappalli.

2.The facts in brief:-

On 22/06/2015 at about 09.30 pm, the deceased Santhanam was driving his Auto bearing registration No.TN-BB-1407 on the Madurai-Trichy Main road. In the joint road at Alanpatty, he turned the vehicle. At that time, the driver of the TNSTC bus bearing registration No.TN-01-N-8786 driven it in a rash and negligent manner and hit the Auto. In that process, Santhanam sustained grievous injuries and he died on the spot.

3.Over the occurrence, a case in Crime No.136 of 2015 was registered by the Manikandam Police Station for the offences under sections 279 and 304(A) of IPC against the driver of the Tamil Nadu State Transport Corporation vehicle.

4.The deceased was aged about 34 years at the time of the occurrence and he was earning not less than



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Rs.25,000/- per month. Seeking compensation amount of Rs.25,00,000/-, the wife and the children filed the petition in MCOP No.23 of 2017 before the Motor Accident Tribunal/Special District Court, Trichy.

5.The appellant appeared and contested the matter stating that the occurrence took place because of the rash and negligent driving on the part of the deceased; Without minding the traffic regulations, he suddenly crossed the road and invited the accident, in spite of best efforts made the driver of the offending vehicle to avoid the accident. So the deceased was only responsible. Further particulars regarding the age and other customary denials are made by the appellant.

6.Before the Tribunal, on the side of the claimants 2 witness were examined, 6 documents marked. On the side of the appellant, one witness was examined and one document marked.

7.At the conclusion of the enquiry, the Tribunal found that the occurrence took place due to the rash and negligent act on the part of the appellant vehicle's driver. So it fixed the responsibility upon the appellant's bus driver. The total compensation amount was



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also calculated as per the settled proposition of law at Rs.19,35,200/-.

8.Against which, this appeal is preferred by the Appellant Transport Corporation.

9.Heard both sides.

10.The occurrence took place on 22/06/2015 at about 09.30 pm is not denied and disputed. It is not denied that over the occurrence criminal case was against the appellant's driver.

11.Now it has been stated by the appellant that the occurrence took place because of the rash and negligent act on the part of the deceased. According to the appellant, the deceased suddenly crossed the road without minding the traffic regulations in the turning point.

12.PW1 was not an eye witness. PW2 is the eye witness to the occurrence. He has stated in his evidence that he was standing in the nearby place. He witnessed the occurrence. There was negligent act on the part of the offending vehicle driver. He drove the same in a rash and negligent manner, hit against the Auto, thereafter on



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the deceased. It was suggested to him that the road runs north-south; The occurrence took place on the eastern portion of the north-south road; The offending vehicle was heading towards Madurai.

13.The driver of the vehicle was examined as RW1. He has stated that because of the sudden crossing by the deceased, the occurrence took place. The appellant vehicle was proceeding from south to north direction that means on the western side. The deceased was about to cross the road from the eastern side to the western side, which is in the junction portion, the occurrence said to have taken place. So, the appellant's vehicle driver ought to have slowed down the vehicle near the junction portion. Anticipating crossing of vehicle and others, it appear that no pre-caution has been taken.

14.The contention on the part of the appellant that there is sudden crossing by the deceased. But there is no convincing evidence on this aspect also. On the sole ground, the finding recorded by the Tribunal is liable to be confirmed and accordingly, it is confirmed.

15.Regarding the quantum, the Tribunal has fixed Rs.14,000/- as monthly income, taking into account the



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monthly income of Rs.10,000/- added with 40% of the future prospectus. So, considering the age as well as the job nature of the deceased, fixation of the monthly income appears to be reasonable. The multiplier adopted is also as per the guidelines formulated in **Sarla Verma and others Vs. Delhi Transport Corporation and another [2009(2) TNMAC 1 (SC)]**. That cannot also be found fault. The consortium amount also fixed reasonably by taking into account the guidelines. Parental consortium is also reasonably fixed. This also requires no interference.

16.In all, I find that the quantum of compensation fixed by the Tribunal is not on the excessive side. So it is liable to be confirmed.

17.In the result, this Civil Miscellaneous Appeal is **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

16/04/2024

Index:Yes/No
Internet:Yes/No
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WEB COPY To,

- 1.The Motor Accident Claims Tribunal/
Special District Judge,
Trichy.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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