



WEB COPY



CMA.No.3055 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CMA.No.3055 of 2021

and

CMP.No.17354 of 2021

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
No.3/137, Salamedu, Vazhudhareddy,
Villupuram.

...Appellant

Vs.

1. Sangeetha
2. Minor Sanjana
3. Minor Keerthana
Minors Rep. by their Mother
and Guardian the 1st respondent Sangeetha
4. Vedavalli
5. Kuppan

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, as against the judgment and decree dated 31.01.2020 passed in MCOP.No.205 of 2016 on the file of the Motor Accidents Claims Tribunal, Special District Court (Motor Accident Claims Cases) Villuppuram.



CMA.No.3055 of 2021

WEB COPY

For Appellant : M/s.S.Shanthakumari

For Respondents : M/s.V.Pavithra
for M/s.V.Srimathi

JUDGMENT

Challenging the judgment and decree dated 31.01.2020 made in MCOP.No.205 of 2016 on the file of the Motor Accidents Claims Tribunal, Special District Court (Motor Accident Claims Cases) Villuppuram, the appellant has come up with this appeal.

2. It is the case of the claimants that, on 25.11.2015 at about 6.30 pm., when the deceased Balamurugan was riding a two wheeler bearing Regn.No.PY-01-BR-9120 in Thirukoilur-Villuppuram main road, near Indra nagar Bypass bridge, at the time, the appellant transport corporation bus bearing Regn.No.TN-32-N-3940 driven by its driver came in a rash and negligent manner and dashed against the two wheeler in which the deceased was travelling, due to which the deceased sustained grievous injuries and died on spot. Thereby, the respondents/ claimants, who are the dependents of the deceased Balamurugan filed a



CMA.No.3055 of 2021

WEB COPY

claim petition in MCOP.No.205 of 2016 claiming a compensation of Rs.30,00,000/-. Before the Tribunal, the claimants examined two witnesses viz., P.W.1 and P.W.2 and marked exhibits P.1 to P.8 and on the side of appellant/transport corporation, one witness viz. R.W.1 was examined and no documents were marked. After trial, the Tribunal, on appreciation of oral and documentary evidence awarded a sum of Rs.13,80,400/- towards compensation for the death of the deceased Balamurugan, payable by the appellant in favour the respondents/claimants. Aggrieved by the same, the appellant-transport corporation has come up with this appeal.

3. Learned counsel for the appellant submitted that at the time of accident, the deceased did not possess valid Driving license and he did not wear Helmet and the above said accident happened solely due to the rash and negligent driving on the part of the deceased. While so, merely because the FIR came to be registered as against the driver of the appellant transport corporation, the tribunal had fastened the entire liability as against the appellant, which is not sustainable, since FIR is not a substantive document and whatever is spoken in the FIR need not



CMA.No.3055 of 2021

WEB COPY

be taken at its face value and the FIR may not and need not contain all the details and it is settled law that FIR is not a conclusive proof nor is an encyclopedia for deciding the case and it is only to set the criminal law in motion and no further. Further, though the claimants claimed that, at the time of accident the deceased was aged about 32 years and was working as a Photographer and was earning a sum of Rs.30,000/- per month, however, in order to prove the same, no documentary evidence has been produced by the claimants. Even then, the tribunal had taken the monthly income of the deceased as Rs.6,500/-, which is highly excessive and the compensation awarded under other heads are also on higher side and the same has to necessarily be interfered with. Accordingly, she prayed for appropriate orders.

4. Per contra, the learned counsel appearing for the respondents submitted that, by considering all the relevant documents, the Tribunal passed the present impugned award, which cannot be said to be erroneous and the quantum of compensation awarded by the tribunal is already on the lower side and the same does not require further reduction. Accordingly, she prayed for dismissal of the appeal.



CMA.No.3055 of 2021

WEB COPY

5. Heard learned counsel on either side and perused the material documents placed on record.

6. The main contention of the learned counsel for the appellant relates to the fact that the deceased had not possessed valid Driving license and was not wearing Helmet at the time of the accident and the entire accident had taken place solely due to the negligence on the part of the deceased, however, the tribunal had fixed the entire negligence on the part of the driver of the appellant transport corporation bus, which is not sustainable.

7. Though such a stand has been taken by the learned counsel for the appellant/transport corporation, it is borne out by record that, in order to prove the negligence on the part of the driver of the appellant transport corporation, one Lakshmi Narayanan, who is an individual eye witness has been examined on the side of the claimants before the tribunal, who has clearly spoken about the manner in which the accident had taken place and he categorically deposed that the accident was due to the rash and negligent driving of the driver of the appellant transport corporation.



CMA.No.3055 of 2021

WEB COPY

When such a deposition has been made, the appellant transport corporation had not taken any endeavour to dislodge the said deposition by placing any evidence, contra to the same so as to disprove the testimony of the said witnesses. When an individual eye witness had clearly deposed the manner in which the accident had happened and had pointed finger on the driver of the appellant transport corporation bus, for rash and negligent driving, the appellant having not examined any proper witnesses and having not adduced any contra evidence in order to disprove the case of the claimants, the mere fact that the deceased did not possess valid Driving license and was not wearing helmet, by itself cannot lead to the assumption that there was a contributory negligence on the part of the deceased. Further, the Tribunal after careful consideration of the deposition of the individual eye witness PW2, who clearly spoke about the manner in which the accident took place and also the FIR that was registered against the driver of the appellant transport corporation had arrived at a conclusion that the accident had taken place due to the rash and negligent driving on the part of the driver of the appellant



CMA.No.3055 of 2021

WEB COPY

transport corporation and thereby, fastened the entire liability as against appellant transport corporation, in which, this Court, does not find any fault with. Hence, this Court is not inclined to interfere with the same.

8. With regard to quantum of compensation, it is the claim of the appellant transport corporation that the compensation awarded by the Tribunal is highly excessive which requires reconsideration. In this regard, this Court perused the impugned award passed by the Tribunal and upon perusal of the impugned award, this Court is of the view that, by no stretch the compensation awarded in the appeal could be said to be excessive or disproportionate. Therefore, this Court is not inclined to interfere with the impugned award passed by the Tribunal.

9. Accordingly, this Civil Miscellaneous Appeal stands dismissed, confirming the impugned award dated 31.01.2020 passed by the Tribunal in MCOP.No.205 of 2016 and the Appellant-transport corporation is directed to deposit the compensation of **Rs.13,80,400/-** awarded by the tribunal to the credit of MCOP.No.205 of 2016 along with interest at the



CMA.No.3055 of 2021

WEB COPY

rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment.

10. Though the tribunal had ordered apportionment in favour of the claimants therein, it was brought to the notice of this Court, pending the appeal, the 5th respondent/father of the deceased had passed away. In such circumstances, this Court is inclined to modify the apportionment in the following terms. Out of the compensation arrived at by the tribunal, the respondents 1-3 are entitled to a compensation of Rs.4,14,120/- each and the 4th respondent is entitled to a sum of Rs.1,38,040/- with proportionate interest and costs. On such deposit being made, the Tribunal is directed to transfer the compensation amount apportioned in respect of the 1st and 4th respondents directly to their bank accounts through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. Insofar as the apportionment of compensation in favour of the minor 2nd and 3rd respondents is concerned, the Tribunal is directed to invest the same in an



CMA.No.3055 of 2021

interest bearing fixed deposit initially for a period of three years to be renewed till they attains majority and the quarterly interest accrued thereon shall be paid to the 1st respondent/mother of the minor claimants for being used for the welfare of the minors 2nd and 3rd respondents by the guardian. No costs. Consequently, the connected Miscellaneous petition is closed.

31.01.2025

skt

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

To:

The Motor Accidents Claims Tribunal, Special District Court
(Motor Accident Claims Cases),
Villuppuram.



WEB COPY



CMA.No.3055 of 2021

M.DHANDAPANI, J.

skt

CMA.No.3055 of 2021
and
CMP.No.17354 of 2021

31.01.2025