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CMA.No.2709 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :06.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.2709 of 2021

The Managing Director
Andrapradesh State Road Transport corporation Limited
P.N.B.Bus Station, Vijayawad
Andra Pradesh State ... appellant

Vs.

1.Kamalamma
2.Kamakshi
3. Minor Upendra
4.Minor Hemanth ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, pleased to set aside the order and decree passed by the Special District Judge, Motor Accidents Claims Tribunal,Krishnagiri in MCOP.No.421 of 2019 dated 09.01.2020.

For appellant : M/s.G.V.Shoba

For Respondents 1, 3 &4: Mr.P.M.Duraiswamy

For respondent 2 : Served-No appearance



CMA.No.2709 of 2021

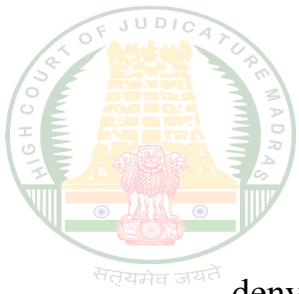
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JUDGMENT

Aggrieved by the award passed by the Motor Accidents Claims Tribunal, the appellant corporation has filed this appeal on the question of negligence as well as quantum.

2. According to the respondents/ claimants, the husband of the first respondent and the father of the respondents 2 to 4, namely Rajappa @ Bheemappa died in a road accident caused by the appellant bus on 22.01.2018. According to them, when the victim was standing near Narayana Tea Shop at Tirumala Balaji Bus Stand, the driver of the appellant corporation drove the bus in a rash and negligent manner on reverse direction and hit against the victim. The head of the victim was ran over by the rear tyre of the bus, as a result of which, the skull of the victim got crushed and he died instantaneously. The respondents filed a claim petition claiming compensation of Rs.25,00,000/-.

3. The claim petition was resisted by the appellant corporation by



CMA.No.2709 of 2021

WEB COPY

denying the manner of accident as claimed in the claim petition. The appellant corporation, in its counter, had taken a stand that the driver of the bus was driving the vehicle solely and cautiously by observing all traffic rules. However, the accident had occurred only due to the sudden crossing of the road by the deceased.

4. Before the Tribunal, the wife of the victim was examined as PW1. One eyewitness was examined as PW2. On behalf of the claimants, 13 documents were marked as Exhibits P1 to Exhibit P13. On the side of the appellant corporation, the driver of the bus was examined as RW1 and no documents were marked.

5. The Tribunal, on appreciation of oral and documentary evidence available on record, came to the conclusion that the accident had occurred due to the negligence of the driver of the appellant bus. The Tribunal fixed the compensation amount at Rs.15,22,584/- Aggrieved by the same, the appellant has come before this court.

6. The learned counsel for the appellant submitted that RW1



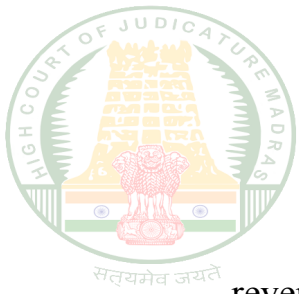
CMA.No.2709 of 2021

WEB COPY

clearly deposed that the victim was suffering from a mental illness and the accident had happened only due to his negligence in crossing the road. According to him, the said evidence has not been taken into consideration by the Tribunal. The learned counsel further submitted that the claimants have not produced any documentary evidence to prove the income of the deceased and hence, the amount of Rs.9000/- fixed by the Tribunal as income of the deceased is very much on the higher side.

7. The learned counsel for the respondents 1, 3, and 4, by taking this court to the award passed by the Tribunal, submitted that the evidence available on record was properly appreciated by the Tribunal and the negligence was fixed on the driver of the appellant bus and the same requires no interference. The learned counsel also submitted that the compensation amount fixed by the Tribunal is just and proper in the facts and circumstances of the case.

8. In order to prove the negligence, claimants examined an eyewitness as PW2. He clearly deposed that the bus was driven in a



CMA.No.2709 of 2021

WEB COPY

reverse direction by the driver of the appellant corporation in a rash and negligent manner and as a consequence, the accident had taken place. The evidence of PW2 has not been impeached in the cross-examination. The Tribunal rightly pointed out that the aspect of mental illness of the victim was not at all put to PW1 and PW2 in their cross-examination and the same was introduced for the first time during chief examination of RW1. Therefore, the submission made by the learned counsel for the appellant, by placing reliance on the evidence of RW1, is not at all acceptable to this court.

9. The Tribunal, by proper appreciation of unimpeached evidence of PW2, eyewitness rightly came to the conclusion that accident had occurred due to the rash and negligent driving of the driver of the appellant corporation. The said finding requires no interference.

10. Coming to the quantum of compensation fixed by the Tribunal, the income of the deceased was fixed at Rs.9000/-. The accident had taken place in the year 2018. Even if no proof is filed for



CMA.No.2709 of 2021

WEB COPY

income of the deceased, the Court can fix the notional income by taking into consideration the date of accident and other attendant charges. Having regard to the year of accident (2018), the amount of Rs.9000/- fixed by the Tribunal is very much on the lower side. Since no cross appeal is filed by the claimants, this court is not inclined to interfere with the notional income of Rs.9000/- fixed by the Tribunal. The Tribunal has given 25% enhancement towards future prospects by taking into consideration the age of the victim, which was 45 years at the time of accident. Taking into consideration that the victim had 4 dependents at the time of accident, 1/4th of the amount was deducted from the loss of dependency arrived at. Therefore, this court finds no error in the method adopted by the Tribunal while fixing a loss of dependency. The amount awarded under others heads such as loss of estate, funeral expenses, loss of consortium and loss of love and affection appear to be reasonable and it requires no interference. Therefore, the submission made by the learned counsel for the appellant corporation on the question of quantum is not acceptable to this court.

11. Therefore, the Civil Miscellaneous Appeal is dismissed by



CMA.No.2709 of 2021

WEB COPY

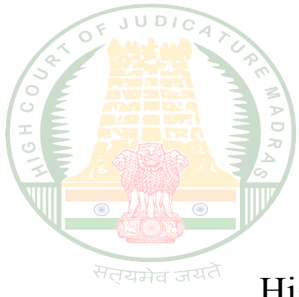
confirming the award passed by the Tribunal. The appellant is directed to deposit the award amount together with the interest within a period of eight weeks from the date of receipt of copy of this judgment, if it is not already deposited. On such deposit, the respondents/claimants are permitted to withdraw the same by filing a formal application before the Tribunal, subject to satisfying Tribunal about attainment of majority by minor claimants. No costs.

06.02.2025

Index: Yes/No
Internet: Yes/No
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To

1. Motor Accident Claims Tribunal,
Special District Court at Krishnagiri
2. The Section Officer,
VR Section,



CMA.No.2709 of 2021

High Court, Madras.

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CMA.No.2709 of 2021

S.SOUNTHAR, J.

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CMA No.2709 of 2021

06.02.2025