



C.M.A.(MD).No.1062 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1062 of 2017

and

C.M.P(MD) Nos.10883 of 2017 and 3602 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation,
New Junction Road,
Kumbakonam Town & Munsif

.....Appellant/Respondent

-vs-

1. Latha

.... Respondent No.1/Petitioner No.1

2. Selvi

.... Respondent No.2 / Petitioner No.2

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and award made in M.C.O.P.No.34 of 2009, dated 15.11.2012 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Court/EC Act Special Court, Thanjavur.

For Appellants : Mr.D.Sivaraman

For Respondents : Mr.N.Tamil Mani– for R2

: R1 - died



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The present Civil Miscellaneous Appeal has been filed by the Transport Corporation challenging the award passed by the Motor Accidents Claims Tribunal, Additional District and Sessions Court/EC Act Special Court, Thanjavur in M.C.O.P.No.34 of 2009 primarily on the ground of non-involvement of the vehicle.

2. According to the claimants, the deceased was an agriculturist and he was waiting for the bus at Sathanur bus stop at about 07.15 a.m on 02.02.2008. At that time, the respondent Corporation bus came from Thirukkattupalli and the driver has stopped the bus in the bus stop. However, when the deceased was getting into the bus through the front way, the driver of the bus had suddenly taken the bus without getting any signal from the Conductor. Due to the rash and negligent manner of the bus driver, the deceased had fallen down and he was run over by the rear wheel of the bus and passed away.

3. According to the claimants, the deceased was an agriculturist and he was earning a sum of Rs.4,000/- (Rupees Four Thousand only) per month and



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they have claimed a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) towards compensation.

4. The Transport Corporation has filed a counter contending that the bus was originally stopped in the bus stop and after it had moved, two persons came running from behind the bus who were in an inebriated mood and alighted into the bus through the rear entry. At that point of time, they were already injured through some other accident. Hence, they contended that they are not responsible to pay any compensation.

5. The Tribunal, after considering the oral evidence of P.W.2 who was one of the co-passengers in the bus, arrived at a finding that due to the rash and negligent driving on the part of the driver of the Corporation bus, the accident has taken place.

6. The Tribunal further found that the age of the deceased was 38 years and he was earning a sum of Rs.4,000/- (Rupees Four Thousand only) per month and after deducting 1/3rd towards personal expenses, the Tribunal arrived at a sum of Rs.32,000/- (Rupees Thirty Two Thousand only) per annum and applying the multiplier of “15” had arrived at a compensation of a



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sum of Rs.4,80,000/- (Rupees Four Lakhs and Eighty Thousand only) under the head of loss of income. A sum of Rs.20,000/-(Rupees Twenty Thousand only) was awarded towards loss of consortium, a sum of Rs.10,000/- (Rupees Ten Thousand only) was awarded towards loss of love and affection, a sum of Rs.7,000/- (Rupees Seven Thousand only) was awarded towards funeral expenses and transport expenses. The total sum of Rs.5,17,000/- (Rupees Five Lakhs Seventeen Thousand only) was awarded. This award is under challenge in the present appeal.

7. According to the learned counsel appearing for the appellant/ Transport Corporation, the bus bearing Registration No.TN-49-N-0067 was not at all involved in the said accident. Therefore, the Transport Corporation is not liable to pay any compensation whatsoever. In fact, the deceased person had got himself injured and succumbed to the said injuries sustained in some other accident, in which the Transport Corporation bus was not at all involved. He further questioned the quantum of award passed by the Tribunal.



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8. Per contra, the learned counsel appearing for the claimants had contended that the manner of accident has been established by the claimants examining the co-passenger viz., P.W.2 and the FIR, which was marked as Ex.P.1. The Transport Corporation has not even chosen to examine their own driver who was on the duty at the time of the accident. Hence, he prayed for confirming the involvement of the vehicle and also the quantum of the award passed by the Tribunal.

9. I have carefully considered the submissions made by the learned counsel on either side.

10. The primary contention of the learned counsel appearing for the appellant is that the concerned bus was not at all involved in the said accident. The deceased has sustained injuries and succumbed to the said injury because of some other accident, in which, the Transport Corporation was not at all involved. The claimants have examined P.W.2, who is the one of the co-passengers of the bus and P.W.2 had specifically pointed out that when the deceased was attempting to enter into the bus, the driver has started the vehicle in a rash and negligent manner without getting any signal from the Conductor. The FIR was registered as against the bus driver under Ex.P.1,



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which also indicates the same. In case, if the accident has not happened in the manner projected by the claimants, the Transport Corporation should have examined their own driver. However, for the reasons best known to them, the Corporation has not chosen to examine their own driver to establish the manner of accident.

11. In such a view of the same, this Court does not find any reason to interfere with the finding of the Tribunal with regard to the manner of the accident and the liability of the Transport Corporation to pay the compensation.

12. Considering the fact that the accident has taken place in the year 2008 and the Tribunal has chosen to fix the notional income at Rs.4,000/- (Rupees Four Thousand only), this Court does not find any reason to find that the said amount is either unreasonable or excessive. The award of the Tribunal under the conventional heads are also neither unreasonable nor excessive.



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13. Therefore, viewed from any angle, there is no merits in the appeal.

Accordingly, this Civil Miscellaneous Appeal stands dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

06.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accidents Claims Tribunal,
Additional District and Sessions Court/EC Act Special Court,
Thanjavur.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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