

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2910 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation,
Villupuram.

... Appellant/Respondent

vs.

1.Kasiammal

2.Elumalai
Respondents/Petitioner

Civil Miscellaneous Appeal filed under Section 173
Motor Vehicles Act, 1988 against the Judgment and decree dated
08.01.2013 passed in M.C.O.P.No.207 of 2006, on the file of the
Motor Accident Claims Tribunal/Subordinate Court, Gingee.

Mr.S.Sairaman

For Appellant

:

Mr.T.Dhanyakumar

For Respondents

:

JUDGMENT

The Managing Director, Tamil Nadu State
Transport Corporation Ltd., Villupuram, has filed this Appeal
against the Judgment and decree dated 08.01.2013 in
M.C.O.P.No.207 of 2006 passed by the Motor Accident Claims
Tribunal/Subordinate Court, Gingee awarding a sum of
Rs.4,21,000/- for the loss of the life of one Natarajan, aged
about 50 years.

2. The learned counsel appearing for the appellant
Transport Corporation assailing the impugned award would submit
that though sufficient evidence was adduced on the side of the
Transport Corporation contending that the driver of the bus
belonging to the Transport Corporation was not negligent in

driving the Bus No.TN 32 N 1510 and that he was slowly and cautiously driving the bus, the Tribunal disbelieved that part of evidence and proceeded to fix negligence on the driver of the bus and held that the driver of the bus was negligent. Indeed, the deceased only invited the accident. Actually, the deceased, who was one of the passengers travelling in the bus belonging to the appellant Transport Corporation, has not alighted from the bus carefully though a warning whistle was given by the conductor at the time of accident. Suddenly, he fell down due to jerk caused by the movement of the bus on his own. Therefore, this cannot be attributed to careless driving on the part of the driver of the bus. This crucial aspect has been overlooked by the Tribunal and the Tribunal has wrongly awarded a sum of Rs.4,21,000/- towards compensation for the claimants along with interest at the rate of 7.5% p.a. from the date of petition till the date of realisation. Therefore, for the reasons stated above, the impugned award is liable to be set aside, he pleaded.

3. This Court is unable to find any merit in the contentions of the learned counsel appearing for the Transport Corporation. The reason is that admittedly, the deceased Natarajan was one of the passengers travelling in the bus belonging to the appellant Transport Corporation when the accident took place on 9.7.2006 at 7.30 p.m.,. On the fateful day, while he was travelling in the Town Bus bearing Reg.No.TN 32 N 1510 from Mallandi Village to Gingee along with one Elumalai, the bus was driven in a rash and negligent manner and while the bus was nearing a Petrol Bunk, on Thiruvannamlai Road, the conductor blew the whistle and the driver applied sudden brake and firstly, Elumalai got down from the bus and then, when the deceased Natarajan was getting down from the bus, the driver of the bus suddenly moved the bus and in the impact, the deceased Natarajan fell down from the bus and the rear wheel of the bus ran over the head of the deceased Natarajan. As a result, he died on the spot. This was spoken to by the eye-witness one Elumalai who was examined as RW.1, who had accompanied the deceased while travelling in the same offending bus. As such, it is proved that the driver of the offending bus was negligent in driving the bus. With regard to the earning of the deceased, the claimants claimed that the deceased was earning a sum of Rs.6,000/- per month as the deceased was driver of the Modern Rice Mill and as no documentary evidence was produced with regard to the income of the deceased, the Tribunal fixed a sum of Rs.4,500/- as the notional monthly income of the deceased considering the avocation and other attendant circumstances. After deducting 1/3 of 4,500/- towards personal and living expenses of the deceased, and rightly applying the multiplier 11, the Tribunal determined the loss of dependency only as Rs.3,96,000/- (3,000 X 12 X 11). Besides, the Tribunal has awarded a sum of Rs.10,000/- for loss

of love and affection, and Rs.10,000/- for loss of consortium. A sum of Rs.5,000/- has been awarded towards funeral expenses. As such, in toto, the Tribunal has awarded only a sum of Rs.4,21,000/- for the loss of life of the deceased at the prime age of 50 working as a driver. Therefore, this Court finds no infirmity in the findings of the Tribunal as alleged by the appellant.

4. Therefore, the impugned Order and Decree is confirmed and the Appeal is dismissed. No costs. Connected Miscellaneous Petition is closed.

5. The appellant / Transport Corporation is directed to deposit the entire award amount, with interest and costs, less the amount already deposited, to the credit of M.C.O.P.No.207 of 2006, on the file of the Motor Accident Claims Tribunal/Subordinate Court, Gingee within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the claimants/respondents are permitted to withdraw the entire amount as per their share by filing proper application before the Tribunal.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

asvm

To

1. The Motor Accident Claims Tribunal/
Subordinate Judge,
Gingee.

2. The Managing Director,
Tamil Nadu Transport Corporation, Villupuram.

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and
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