

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2569 of 2015

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

.. Appellant

-Vs-

1. Shanthi
W/o Arumugham

2. Revathy
D/o Arumugham

3. Ananthakumar
S/o Arumugham

4. Lakshmi
D/o Arumugham

5. Ramachandran
S/o Mahadeva Gounder

... Respondents

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 3.3.2014 made in M.A.C.T.O.P.No.101 of 2013 on the file of the Special District Judge, to deal with MCOP cases, Villupuram.

For Appellant :: Mr.S.Prabhu

JUDGMENT

This appeal, at the instance of the Tamil Nadu State Transport Corporation Limited, Villupuram, Kanchipuram, challenges the impugned award passed by the Motor Accidents Claims Tribunal (Special District Judge), Villupuram in M.A.C.T.O.P.No.101 of 2013 dated 3.3.2014 only with regard to the quantum.

2. Heard the learned counsel for the appellant and perused the materials available on record. Learned counsel for the

appellant also submitted that the entire award amount has been deposited.

3. The legal heirs and dependant of the deceased Mr.Arumugham, who was an agriculturist and doing real estate business, laid the claim petition seeking a compensation of Rs.10,00,000/- for his death on account of the accident that took place on 6.3.2011 at about 7.00 p.m. It is their case that while the deceased was walking on the extreme left side of the road in Chennai trunk road, near karumbu vivasayegal mandapam opposite to Om Muruga welding works on the said date, the driver of the appellant-Tamil Nadu State Transport Corporation bus bearing Registration No.TN-21-N-1211 drove it in a rash and negligent manner with high speed and dashed against the deceased, as a result of which the deceased sustained fatal head injuries and died on the spot. It is also their case that the deceased was the sole bread winner of their family and earning a sum of Rs.15,000/- per month. However, the appellant-Corporation disputed the claim without adducing any evidence, both oral and documentary, on the ground of contributory negligence.

4. But the Tribunal, finding that Mr.Arumugham died only due to the rash and negligent driving of the driver of the appellant bus, rejected the contention of contributory negligence attributed on the part of the deceased, in the absence of rebuttal evidence, based on the contents of the First Information Report, Ex.P1 and the evidence of the eye-witness, PW2. Ultimately the Tribunal, taking the age of the deceased as 50 at the time of accident, in the absence of any substantial proof produced as to the income of the deceased, fixed the monthly income of the deceased at Rs.4,500/-. After deducting 1/3rd towards his personal expenses and adopting the multiplier of 13, the Tribunal has arrived at the loss of earning capacity at Rs.4,68,000/- i.e., Rs.3000x12x13, following the principles laid down by the Hon'ble Apex Court in Sarla Verma and others v. Delhi Transport Corporation Ltd., and others, 2009 ACJ 1298 as well in Amrit Bhanu Shali and others v. National Insurance Company Ltd., and others, 2012 ACJ 2002. In addition thereto, the Tribunal has awarded a sum of Rs.50,000/- towards loss of consortium and love and affection respectively apart from a sum of Rs.5,000/- towards the funeral expenses, thus totalling a sum of Rs.5,23,000/- as the total compensation. Out of the said sum, it has apportioned a sum of Rs.2,13,000/- to be paid to the wife of the deceased, a sum of Rs.1,50,000/- to be paid to the unmarried daughter of the deceased, a sum of Rs.75,000/- each to be paid to the son and father of the deceased and a sum of Rs.10,000/- to the other married daughter of the deceased, respectively. It also directed that the said award amount shall carry interest at the rate of 7.5% per annum from the date of petition till 17.11.2011 and from 27.3.2012 till the date of

deposit, since the interest was waived from 18.11.2011 to 26.3.2012 vide order in I.A.No.440 of 2012 dated 27.3.2012.

5. On consideration of the entire evidence, this Court is of the considered opinion that there is no infirmity in the award of the Tribunal in granting a sum of Rs.5,23,000/- as the just compensation against the claim of Rs.10,00,000/- to the legal heirs and dependant of the deceased-Arumugham with 7.5% interest per annum. Since the entire award amount has been deposited, the respondents-claimants are entitled to withdraw the same after making necessary application in this regard before the Tribunal. With the above direction, the civil miscellaneous appeal is dismissed confirming the judgment and decree of the Tribunal in all respects at the admission stage. Consequently, M.P.No.1 of 2015 is also dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal
(Special District Judge)
Villupuram

+1 cc to Mr.S.Prabhu, Advocate sr.62114

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