

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/10/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

C.M.A.No.3616 of 2013

1.R.Chitra

2.K.Raman

Appellants/Petitioners

Vs.

The Managing Director,
Metropolitan Transport Corporation,
Pallavan House, Anna Salai,
Chennai-600 002.

Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the amount awarded in M.C.O.P.No.620 of 2010, dated 10.07.2013, on the file of Motor Accidents Claims Tribunal, Special Sub Judge-I, Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondent : Mr.K.S.Suresh

J U D G M E N T

The short facts of the case are as follows:-

On 17.02.2010, at about 12.00 hours, when the deceased was traveling in the MTC Bus bearing registration No.TN-01-N-4182 at Perambur High Road, the bus was stopped at Mangalapuram Bus Stop. While the deceased was alighting from the bus at the bus stop, the driver of the bus without observing the alighting of passengers, suddenly drove the bus in a rash and negligent manner. As a result of which, the deceased fell down from the bus and sustained grievous injuries and admitted in KMC Hospital and in spite of medical treatment, he died. Hence, the legal-heirs of the deceased have filed the claim against the respondent / Transport Corporation.

2. The respondent / Transport Corporation had filed a counter and stated that on 17.02.2010, the Corporation bus bearing registration No. TN-01-N-4182, was plying on Perambur High Road nearing Mangalapuram bus stand. At that point of time,

the driver drove the bus in a very careful manner, and while the bus was nearing the bus stand, suddenly a group of passengers rushed near the front foot board to get down from the moving bus rapidly. Even though the driver of the bus warned the passengers not to get down hurriedly before the bus reached the bus stand, some of the passengers had tried to alight from the bus. When the young boy / deceased tried to get down from the moving bus hurriedly on his own accord, he could not control his balance and fell down and sustained fatal injuries. It was further submitted that the accident occurred only due to the negligent act of the deceased and hence, contributory negligence had to be attributed. It was further submitted that the claim was excessive and hence, it was prayed to dismiss the claim.

3. The Tribunal, after considering the averments of both parties, framed three issues for consideration. On the side of the claimants, 3 witnesses were examined and 9 documents were marked. On the side of the respondent, one witness was examined and no document was marked.

4. The Tribunal after scrutiny of documentary and oral evidence of both sides awarded a sum of Rs.4,68,000/- as compensation to the claimants along with the interest at the rate of 7.5% per annum from the date of numbering the claim till date of payment of compensation with costs.

5. Not being satisfied with the award passed by the Tribunal, the claimants have filed the above appeal.

6. The learned counsel for the appellants Mr.K.Varadha Kamaraj submits that the Tribunal erred in fixing the multiplier '13' when the deceased age was 19 years. The Tribunal ought to have fixed multiplier of '18' as per schedule and precedent of the Hon'ble Apex Court when the deceased age is '19'. The learned counsel further submits that the Tribunal ought to have awarded more than a reasonable sum towards loss of love and affection and funeral expenses. Hence, the learned counsel entreats the Court to grant additional compensation of Rs.4,00,000/- with interest.

7. The learned counsel Mr.K.S.Suresh appearing for the respondent submits that even though the driver of the bus warned the passengers not to alight from the moving bus, the deceased tried to get down from the moving bus hurriedly on his own accord and he could not control his balance and fell down and sustained fatal injuries. He further submits that the accident had occurred due to the negligent act of the deceased and hence, contributory negligence ought to have been taken in this case and the same was not considered by the Tribunal. The learned counsel further submits that the award granted by the Tribunal under the relevant heads were excessive and hence, he

entreats the Court to scale down the compensation.

8. On considering the facts and circumstances of the case and arguments advanced by the learned counsels on either side and on perusing the typed-set of papers, this Court is of the view that the deceased aged about 19 years was studying in the first year Commerce Degree Course. The claimants are parents of the deceased and they have lost their only graduate son. Hence, this Court is inclined to grant appeal value amount of a sum of Rs.4,00,000/- (Rupees Four Lakhs only) under the head of 'loss of love and affection' since the parents have been put into a state of grievous mood which is permanent in nature till their life time. Accordingly, the above appeal is allowed.

9. Therefore, this Court directs the respondent/Transport Corporation to deposit the additional compensation of Rs.4,00,000/- with interest at the rate of 7.5% per annum from the date of filing the claim, till date of payment of compensation, within a period of eight weeks from the date of receipt of a copy of this order. After such deposit being made, it is open to each of the claimants to withdraw the said sum equally among themselves, with proportionate interest, after filing a Memo, along with a copy of this order.

10. In the result, the above appeal is allowed. There is no order as to costs.

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Sd/-
Assistant Registrar (CCC)

True Copy

Sub Assistant Registrar

To

1.The Special Sub Judge-I,
Motor Accidents Claims Tribunal,
Chennai.

2.The Section Officer,
VR Section,
High Court,
Madras.

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