

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23/09/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

C.M.A.No.3782 of 2012

1.M.V.Augustine @ Varkey Augustine

2.Mrs.Elsy Augustine

...Appellants

Vs.

1.M.Palanisamy

2.The Managing Director,
M/s.Tamil Nadu State Transport Corporation (CBE, DIV-II),
Chennimalai Road, Erode - 1.
3.K.V.Ahameed Shameem

4.The National Insurance Company Limited,
Post Box No.40, Bank Road,
Opp to Safire Tourise Home,
Kannur,
Kerala - 670 001.

5.M/s.A.P.Rayees Mohammed

...Respondents

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, against the judgment and decree in M.C.O.P.No.1510 of 2006, dated 02.04.2007, on the file of the Motor Accident Claims Tribunal, III Additional Sub Court, Coimbatore.

For Appellant : Mr.Manoj Sreevalsan

For Respondents : Mr.J.Chandran for R4

J U D G M E N T

On 06.07.2006, when the deceased was travelling as a pillion rider on the Coimbatore main road, the transport bus bearing registration No.TN-33N-1482, coming from behind at a high speed dashed against him. As a result, he had sustained injuries and succumbed to it. Hence, the parents of the deceased had filed the claim petition against the Transport Corporation and claimed a sum of Rs.5,00,000/-.

2. The Transport Corporation had filed a counter statement and resisted the claim. The respondents submit that the driver of the bus was proceeding at a minimum speed and followed the traffic rules. The rider of the motorcycle had attempted to overtake the bus on its left side. As a result, the rider had lost balance and fallen down on the road. The respondent denied the averments regarding age, income and occupation of the deceased.

3. After considering the averments of both parties, the Tribunal had framed three issues. On the side of the claimant two witnesses were examined and seventeen documents were marked. On the side of the respondent, one witness was examined and no document was marked. After recording the evidence of the witnesses and after perusing the documents, the Tribunal had awarded a sum of Rs.1,36,577/- as compensation with interest at the rate of 7.5% per annum. Not being satisfied with the quantum of compensation, the claimants have filed the above appeal and sought additional compensation.

4. The highly competent counsel Mr.Manoj Sreevalsan, appearing for the appellants submits that the driver of the bus had committed the said accident. Hence, a criminal case had been levelled against him. The deceased age was 21 years and he was studying B.Sc Catering Science and hotel management. Besides, he was doing part time job in the restaurant. As such, he was a earning member. The claimants are parents of the deceased and they have lost their only son in the said accident. The parents of the deceased fully depend upon their son's support. After his death, they are in a deserted condition. The Tribunal had not granted an adequate compensation to the claimants.

5. The very competent counsel Mr.J.Chandran appearing for the 4th respondent submits that the Insurance Company is a formal party. Further, the F.I.R had been registered against

the driver of the bus. Therefore, the liability had been fastened on the transport corporation.

6. On considering the facts and circumstances of the case and submissions made by the learned counsel and on perusing the typed set of papers, this Court is of the view that the deceased's age was 21 years and he was studying a degree course in science and also he was working as a caterer at a hotel. The parents have lost their only son in the said accident. Their total claim is a sum of Rs.5,00,000/- which is reasonable but the Tribunal had granted a sum of Rs.1,36,577/- as compensation which is on the lower side. Therefore, the balance compensation of a sum of Rs.3,63,423/- has been claimed by the appellants by filing the above appeal. The same is allowed and the said amount is treated as an award towards loss of income, funeral expenses, transport, loss of love and affection as additional compensation. This amount will carry interest at the rate of 7.5% per annum from the date of filing the claim petition till date of payment of compensation.

7. This Court directs the Transport Corporation/2nd respondent herein to execute the said award within a period of eight weeks from the date of receipt of this order by way of deposit before the trial Court. After such a deposit being made, it is open to the claimants to withdraw the said amount, equally among themselves, after filing a memo along with a copy of this order. Hence, the above appeal is allowed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

ub

To

1. The Motor Accide0nt Claims Tribunal,

III Additional Sub Court,
Coimbatore.

2. The Managing Director,
M/s. Tamilnadu State Transport Corporation
(CBE, Div - II), Chennimalai Road,
Chennai - 1.

3. The Section Officer,
V.R.Section,
High Court, Madras.

1 CC to Mr.Manoj Sreevalsan, Advocate SR.No. 52318

1 CC to Mr.Margabandhu, Advocate SR.No. 52538

C.M.A.No.3782 of 2012

SVI (CO)
PSI (26.10.2015)



WEB COPY