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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2015

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.M.A. (MD) No.1159 of 2015

and

M.P.(MD) No.4 of 2015

The Managing Director
Tamil Nadu State Transport
Corporation, Dindigul

... Appellant / Respondent

-vs-

1.K.Pandiammal

2.Navendra

3.Minor.K.Ramkumar

4.Minor.K.Suba ... Respondents 1to 4 / Petitioners 1 to 4
(Minor respondents /
Petitioners 3 & 4 rep.through
its mother and natural guardian
of R1 / Petitioner)

PRAYER: Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, to allow the civil miscellaneous appeal setting aside the Judgment and decree passed award, dated 11th day of January, 2012 made in M.C.O.P.No.115 of 2010, on the file of the Motor Accident Claims Tribunal Sub Court, Paramakudi.

For Appellant : Mr.M.Kayalarasan

For Respondents : Mr.K.Senthil Dharmarajan

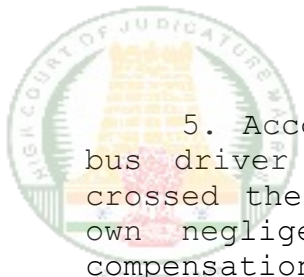
J U D G M E N T

This is a State Transport Corporation's appeal on the aspect of liability.

2. On 30.08.2010, at about 7 p.m., in Madurai-Rameswaram National Highways Road, a road accident had taken place. In this, the husband of the first respondent and father of respondents 2 to 4 suffered mortal wounds and died.

3. Appreciating the oral and documentary evidence, the Tribunal concluded that the accident was due to the rash and negligent driving of the driver of the appellant / Transport Corporation and assessed the total compensation at Rs.6,60,000/- and directed the appellant / State Transport Corporation to pay the said amount.

4. Aggrieved, as stated at the outset, the State Transport Corporation has preferred this appeal.



5. According to the learned counsel for the appellant, actually the bus driver had driven the bus correctly. The deceased had suddenly crossed the road thus the accident and he lost his life because of his own negligence. For this, the appellant cannot be asked to pay compensation.

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6. On the other hand, the learned counsel for the claimants would contend that actually the bus driver came driven the bus in a rash and negligent manner and dashed on the back of the two wheeler driven by the deceased and in the impact the deceased fell down and lost his life. Thus, the bus driver is responsible for the accident. The Tribunal has rightly concluded this issue.

7. I have considered the rival submissions, perused the materials on record and also the impugned Award of the Tribunal.

8. P.W.1 widow of the deceased, has not seen the accident. P.W.2 is an ocular witness. He deposed that the bus driver / R.W.1 came driven the bus in a rash and negligent manner and hit on the back of vehicle of the deceased and he has collapsed. However, R.W.1 / bus driver deposed that the deceased had suddenly crossed the road and in such circumstances, the accident had taken place.

9. It is pertinent to note that a complaint has been lodged against R.W.1. F.I.R. has been registered against him only. Police investigated the matter and filed the final report as against the bus driver for an offence under Section 304(A) I.P.C. It is pertinent to note that the bus driver has not filed any complaint before the Police Station and he has also not given any report to the Transport Corporation to the effect that he had driven the bus correctly, the deceased himself crossed the road and caused the accident.

10. A close scrutiny of the evidence of the eye-witness and the documents clearly contradicts the self-interested version of R.W.1. In this view of the matter, we concur with the view taken by the Tribunal fastening negligence on the part of the bus driver. In the circumstances, we have no occasion here to interfere with the impugned Award of the Tribunal.

11. In the result, the civil miscellaneous appeal fails and it is dismissed. The Judgment and Decree, dated 11.01.2012, passed in M.C.O.P.No.115 of 2010, on the file of the Motor Accident Claims Tribunal / Sub Court, Paramakudi, are upheld. On proper petition being filed, the Tribunal will pay the respective share of compensation amount to the claimants 1 and 2 as allotted by the Tribunal, less the amount if any already paid. The share of the minor claimants / respondents 3 and 4 shall be continued in Bank deposited till they attain majority. Their mother / first respondent shall be paid quarterly interest accruing on the minors' deposited. No costs. Consequently, connected miscellaneous petition is closed.

sd/-

Assistant Registrar(CS II)



To:

1.The Principal District Judge,
Ramanathapuram.

2.The Motor Accident Claims Tribunal,
(Subordinate Judge)
Paramakudi.

+1cc to M/s.M.Kayalarasan, Advocate SR.No.62521

+1cc to M/s.Senthil Dharmarajan, Advocate SR.No.62715

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