



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2015

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CMA(MD). No.784 of 2015 and
M.P.(MD).No.2 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Bye Pass Road, Madurai - 625 010 : Appellant/Respondent
Vs.

1. B. Suruliraja
2. S. Jothi Lakshmi : Respondents/Petitioners

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree made in MCOP.No.2083 of 2012 dated 30.04.2014 on the file of the Motor Accident Claims Tribunal / VI Additional District Court, Madurai.

For appellant : Mr. P. Prabhakaran

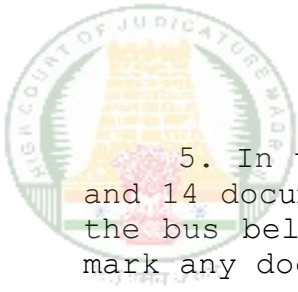
O R D E R

This Civil Miscellaneous Appeal is filed against the Judgment and Decree made in MCOP.No.2083 of 2012 dated 30.04.2014, on the file of the Motor Accidents Claims Tribunal / VI Additional District Court, Madurai.

2. The appellant is the Transport Corporation. The respondents 1 and 2 are the claimants.

3. The respondents 1 and 2 filed claim petition claiming a sum of Rs.7,00,000/- as compensation, for the death of their minor son. According to the respondents 1 and 2, on 12.04.2012 at 17.45 hours, while the second respondent was riding a Two Wheeler along with two minor sons, the driver of the bus belonging to the appellant, drove the bus in a rash and negligent manner and dashed against the Two wheeler, driven by the second respondent and caused accident. Due to the said accident, the second respondent and their sons sustained injuries. One of the son, by name Vignesh, died in the hospital on 13.04.2012, due to the injury sustained by him. For the death of minor son, the respondents 1 and 2 filed claim petition claiming compensation of Rs.7,00,000/-.

4. The appellant filed counter statement denying their liability to pay compensation. According to the appellant, the accident did not occur due to rash and negligent driving by driver of the bus belonging to the appellant. The accident occurred only due to the careless driving of the second respondent. She lost her control of two wheeler as one Auto Rickshaw suddenly came, and dashed against the bus of the appellant. They also contended that the insurer of the Two wheeler is necessary party and prayed for dismissal of this petition.



5. In the claim petitions, the second respondent was examined as PW.1 and 14 documents were marked as Exs.A1 to A14. One M. Murugan, Driver of the bus belonging to the appellant bus examined as RW.1 and they did not mark any documents.

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6. The Tribunal considering the pleadings and evidence rejected the contentions of the appellant and came to the conclusion that the accident took place only due to the rash and negligent driving of the driver of the bus belonging to the appellant. The Tribunal awarded a sum of Rs.2,58,980/- as compensation. Against the said order dated 30.04.2014, the appellant has filed the present appeal.

7. The learned counsel for the appellant contended that the compensation awarded is excessive and Tribunal is not correct in fixing the notional income of the deceased minor at Rs.15,000/- per year and applied multiplier of 15. Further, the amount awarded for loss of love and affection and funeral expenses are also excessive. He further contended that the second respondent did not have valid licence, at the time of accident. One Autorickshaw came from the opposite direction in a high speed and dashed against the Two wheeler driven by the second respondent. She lost her control and came in zigzag manner and came in the right side of the road and dashed against the bus belonging to the appellant.

8. Heard the learned counsel appearing for the appellant.

9. From the pleadings and evidence it is seen that the Tribunal has come to the conclusion that the accident took place only due to rash and negligent driving, by the driver of the bus belonging to the appellant. The First Information Report has been lodged against the driver of the bus. The driver of the bus did not lodge any complaint, before the Police Station. There is no proof to substantiate the claim of the appellant that complaint given by driver of bus was not registered. The appellant has not stated as to whether, they took any steps with higher officials of Police for registering complaint. In view of this fact, I am not inclined to interfere with the finding of Tribunal, that the accident took place only due to rash and negligent driving by the driver of the bus belonging to the appellant. As far as quantum of compensation is concerned Tribunal has awarded a sum of Rs.2,58,980/- as compensation. The said amount was arrived at as per the guidelines of the Apex Court as well as provision of Motor Vehicles Act. The said compensation is just compensation.

10. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

The Assistant Registrar(crl.side)

/True copy/

Sub-Assistant Registrar



To
The Motor Accidents Claims Tribunal /
VI Additional District Court, Madurai.

+lcc to Mr.P.Prabhakaran, Advocate SR.No.39035

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