

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.04.2016

CORAM

THE HON'BLE Mr.JUSTICE S.VAIDYANATHAN

C.M.A.No.1014 of 2016

and C.M.P.No.7710 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Kancheepuram. ... Appellant

Vs.

1. Mallika
2. Sundaramurthy
3. Durai
4. Rani
5. Santhi
6. Selvam
7. Kala
8. Kumar ... Respondents

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988 against the fair and decreetal order dated 27.07.2011 made in M.C.O.P.No.256 of 2005 on the file of the Motor Accident Claims Tribunal, Sub Court, Cheyyar, Tiruvannamalai District.

For Appellant : Mr.S.Sairaman

J U D G M E N T

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the fair and decreetal order dated 27.07.2011 passed in M.C.O.P.No.256 of 2005 on the file of the Motor Accident Claims Tribunal, Sub Court, Cheyyar, Thiruvannamalai District.

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

3. It is a case of fatal accident. On 09.06.2005 at about 15.00 hours, when the deceased Ganesh Gounder was riding his bicycle near 5 eyes bridge at Vandavasi, the appellant's bus bearing Reg.No.TN 21-N-0678 came from opposite direction driven by its driver in a rash and negligent manner and dashed against the said Ganesh Gounder. Due to which, he had multiple grievous injuries all over the body. Immediately, he was taken to Government Hospital at Vandavasi and during treatment, he succumbed to death on the same day. The

claimants who are the wife, sons and daughters of the deceased approached the Tribunal, claiming compensation to the tune of Rs.10,00,000/-. The Tribunal, based on the oral and documentary evidence, awarded compensation to the tune of Rs.2,52,000/-. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

4. According to the learned counsel for the appellant/Transport Corporation, the Tribunal ought not to have fixed a sum of Rs.3,500/- and that the respondents/claimants are majors and they are not dependents of the deceased. Therefore, the appellant/Transport Corporation prays to dismiss the appeal.

5. A cursory glance of the award of the Tribunal would make it clear that the accident was caused by the appellant/Transport Corporation bus, due to which the deceased sustained injuries and died on 09.06.2005. Even though as per the Sarla Verma case, the Tribunal ought to have deducted 1/4th towards personal expenses, 1/3rd was deducted by the Tribunal. It is seen that the first claimant herein is the second wife of the deceased. Though the first wife is alive and she obtained divorce from the deceased, no proof has been furnished regarding the same and therefore, the Tribunal held that the first claimant is not entitled to get any share from the compensation. Assuming that if the deceased had been alive, he might have earned Rs.150/- per day, the Tribunal fixed his income as Rs.3,500/- per month and awarded total compensation at Rs.2,52,000/-, which cannot be said to be excessive. Hence, taking note of the totality of the circumstances, I find no reason to interfere with the award of the Tribunal.

6. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the Tribunal is also confirmed. The appellant/Transport Corporation Company is directed to deposit the entire award amount together with interest to the credit of M.C.O.P.No.256 of 2005 on the file of the Motor Accident Claims Tribunal [Sub Court], Cheyyar, Thiruvannamalai, if not already deposited, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the respondents 2 to 8/claimants 2 to 8 are entitled to withdraw their respective shares as apportioned by the Tribunal on filing necessary applications before the Tribunal.

7. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016 scrupulously. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

The Motor Accident Claims Tribunal,
Sub Judge,
Cheyyar, Kancheepuram District.

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krd 29/8

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