

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No. 1029 of 2016

&

C.M.P. No. 7815 of 2016

Metropolitan Transport Corporation Ltd.,
rep. by its Managing Director,
Pallavan Salai,
Pallavan House,
Chennai - 600 002.

..Appellant/Respondent

..vs..

R.Vadivel (Deceased)
1.Amirtham
2.Lakshmi

..Respondent/Claimants.

Prayer: Civil Miscellaneous Appeal as against the Judgment and decree dated 21.09.2004 made in M.C.O.P.No.258 of 1999 on the file of Motor Accidents Claims Tribunal (Additional District Court), Chengalpet.

For Appellant :: M/s. Rajnish Pathiyil

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation against the Judgment and decree dated 21.09.2004 made in M.C.O.P. No.258 of 1999 on the file of Motor Accidents Claims Tribunal (Additional District Court), Chengalpet.

2. It is a case of fatal accident. On 12.04.1999 when the deceased Vadivel was getting down from the bus bearing Registration No.TN 01-N- 2090, the driver without noticing whether the passengers have got down from the bus or not drove the bus in a rash and negligent manner, due to which, the deceased fell down and sustained injuries all over the body. Thereafter, on 26.04.2001, he died. The wife and daughter of the deceased approached the Tribunal, claiming compensation to the tune of Rs.1,00,000/-. The Tribunal, based on the oral and

documentary evidence, awarded compensation to the tune of Rs.42,000/-. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

3. Though the claimants stated that the deceased is a self employed person, the Tribunal fixed the notional income at Rs.5,000/- and since the petitioner sustained crush injury in his right toe and a fracture on the left leg and multiple injuries all over the body, the Tribunal has awarded a sum of Rs.30,000/- towards pain and sufferings, a sum of Rs.2,000/- was granted towards transportation, and a sum of Rs.5,000/- was awarded for medical expenses and Rs.5,000/- towards loss of income and in all a sum of Rs.42,000/- was awarded as compensation.

4. I have heard the learned counsel appearing for the Transport Corporation and learned counsel appearing for the respondent.

5. Learned counsel for the appellant submits that except the discharge summary no other admissible evidence had been let in by the injured to establish the claim. The doctor who treated the injured had not been examined. Even no bills had been produced for the medical expenses. It is also admitted that the deceased succumbed to death due to the cause of accident. In the light of the same, the claim made is vexatious.

6. A perusal of the award of the tribunal would reveal that the injured had been treated in government hospital as inpatient from 12.04.1999 to 12.05.1999. Since the injured is aged 70 years at the time of accident, definitely he would have suffered severe pain and sufferings as admittedly, he was in hospital for more than a month. Though he had taken treatment for a month, no amount had been granted under the head attender charges. Taking note of the fact that the injured was in hospital for 30 days, I find there is no reason to interfere with the award of the Tribunal since only a meagre amount had been granted.

7. In view of the above, this Civil Miscellaneous Appeal is dismissed. The Appellant Transport Corporation is directed to deposit the entire award amount together with proportionate costs and interest @ 7.5% per annum from the date of claim petition if not already deposited, to the credit of M.C.O.P.No.258 of 1999 on the file of the Motor Accident Claims Tribunal, (Additional District Court), Chengalpet., within a period of eight weeks from the date of receipt of a copy of this

order and on such deposit being made, the respondents herein/claimants are entitled to make necessary applications to withdraw the same. No costs. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

The Additional District Court
Motor Accidents Claims Tribunal, Chengalpet.

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C.M.A. No. 1029 of 2016



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