

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1043 of 2016
and
CMP.No.7977 of 2016

The Managing Director,
Rep. by its
Tamil Nadu State Transport
Corporation Limited,
No.12, Ramakrishna Road,
Salem.

.... Appellant/Respondent

Vs.

1. Selvi
2. Venkatesan
3. Valarmathi

.... Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 30.03.2012, made in M.C.O.P No.662 of 2008 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Namakkal.

For Appellant : Mr. D.Venkatachalam

For Respondents:

सत्यमेव जयते
J U D G M E N T

The Transport Corporation has come up with this appeal challenging the quantum of compensation awarded by the Tribunal.

2. On 24.01.2006, while the appellant Transport Corporation bus bearing Registration No.TN 27 N 1605, started from Rasipuram Andagalurgate bus stop after departing the passengers, even before getting the signal from the Conductor, the driver moved the bus in a rash and negligent manner and so when the Conductor tried to get into the running bus, he fell down and sustained grievous injuries on the head, fracture on the spinal card, leg, etc and was bed ridden for about 20 months and died. The Claim Petition has been filed by his wife and children before the Tribunal, seeking a sum of

Rs.15,00,000/- as compensation. After analyzing the available oral and documentary evidences, the Tribunal awarded a sum of Rs.9,01,000/- as compensation, under the following heads:

Sl. No	Heads	Amount
1	Loss of Salary	Rs.4,54,000.00
2	Loss of future income	Rs.1,92,000.00
3	Medical Expenses	Rs.2,05,000.00
4	Loss of love and affection to the claimants	Rs. 30,000.00
5	Loss of Consortium	Rs. 10,000.00
6	Funeral Expenses	Rs. 10,000.00
	Total	Rs.9,01,000.00

3. Learned counsel appearing for the appellant/Transport Corporation, mainly contended that the Tribunal ought to have considered the evidence of RW1, the driver of the bus, deposing that after dropping the passengers at Rasipuram Andagalurgate bus stop, only on getting the signal from the Conductor he moved the bus and on hearing the passengers shouting he came to know that the conductor fell down. The Tribunal has erred in granting higher compensation to the claimants towards medical expenses, while the claimants have already been granted compensation under the other heads. Challenging the quantum, this appeal has been filed by the appellant Transport Corporation.

4. As per the deposition of the witnesses, the evidences and documents produced before the Tribunal, it is found by the Tribunal that the driver of the bus, in a rash and negligent manner had moved the bus, before getting signal from the Conductor and before the Conductor got into the bus and thus the accident had occurred. From the records, it could be seen that he was under treatment in Government Hospital and then in Gokulam Hospital for about two months and he was bed ridden for about 20 months and thereby incurred huge medical expenses. Inspite of their best efforts, his life could not be saved and he died on 24.08.2007. The deceased has left behind his wife and two children. Considering the age of the deceased, his services as a Conductor in the appellant Transport Corporation and the medical bill book, the Tribunal has granted a reasonable compensation.

5. This Court considered the submissions made by the learned counsel for the appellant and perused the materials available on record. Since the respondents/ claimants will not be prejudiced with the result of this Appeal, the main

case itself is disposed of at the stage of admission itself, without serving notice to them.

6. Perusal of the records clearly show that after investigation, the Tribunal has come to the conclusion that the negligence is only on the part of driver of the Transport Corporation bus and not on the deceased. The Tribunal has rightly followed the principles laid down by the Apex Court and this Court, in various judgments and had granted the compensation under the headings 'Loss of Salary' and 'Loss of future income'. This Court is not inclined to interfere with the compensation granted under the other heads, which are fair and correct. At this juncture, this Court would like to point out that the deceased is none other than an employee of the appellant Transport Corporation and has died, while he was in duty.

7. In view of the above, this Court is of the considered opinion that there is no necessity to interfere with the order passed by the Tribunal. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. The appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest, less the amount already deposited, to the credit of M.C.O.P.No.662 of 2008 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Namakkal, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay the apportioned share of compensation to the claimants in the form of a crossed Account Payee Cheque, favouring only the claimants and it should not be issued in favour of any other person/Company. No costs. Consequently, the C.M.P. is closed.

Sd/-

Assistant Registrar (J)

//True Copy//

Sub Assistant Registrar

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To :

The Principal District Judge
Motor Accidents Claims Tribunal,
Namakkal.

C.M.A.No.1043 of 2016
and CMP.No.7977 of 2016

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kra 24.06.2016