

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1057 of 2016
and
C.M.P.No.7993 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Trichy ... Appellant/Respondent

Vs.

1. Mahendiran @ Kuppusamy
2. Manimegalai ... Respondents/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 08.02.2012, made in M.C.O.P No.125 of 2007, on the file of the Motor Accident Claims Tribunal, Sub Judge, Ariyalur.

For Appellant : Mr. D.Venkatachalam

J U D G M E N T

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

2. On 17.03.2007, when the appellant Transport Corporation bus bearing Registration No.TN 45 N 2328 arrived at Kunjuvezhi Bus Stop, in Udayarpalayam Taluk, the deceased Pichaiyammal was about to board into the bus, simultaneously arranging her chilly bag but the driver moved the bus in a rash and negligent manner and so she fell down and sustained grievous fatal injuries and died in the hospital. The Claim Petition has been filed by her children, before the Tribunal, seeking a sum of Rs.5,00,000/- as compensation. After analyzing the available oral and documentary evidences, the Tribunal awarded a sum of Rs.4,25,000/- as compensation, under the following heads:

Sl. No	Heads	Amount
1	Loss of Dependency	Rs.3,12,000.00
2	Loss of love and affection to the claimants	Rs. 90,000.00
3	Transport Expenses	Rs. 8,000.00
4	Funeral expenses	Rs. 15,000.00
	Total	Rs.4,25,000.00

3. Learned counsel appearing for the appellant/Transport Corporation, mainly contended that the accident had occurred only due to the carelessness on the part of the deceased who stood on the foot board of the bus along with a chilly bag and when the bag slipped she tried to catch the bag, lost balance and fell down from the bus and hence the Tribunal ought to have fixed contributory negligence against the deceased. The Tribunal has erred in holding negligence on the part of the driver of the appellant Transport Corporation bus, merely based on the F.I.R filed against him. He further contended that the Tribunal ought not to have considered the evidence of PW1, who is the son of the deceased and not an eye witness to the accident. He further contended that in the absence of any valid documentary evidence to prove the age and income of the deceased, the compensation awarded by the Tribunal is on the higher side. Challenging the quantum, this appeal has been filed by the appellant Transport Corporation.

4. As per the depositions 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, without noticing the deceased getting inside and thus the accident has occurred. Due to the fatal accident, the deceased has left behind two children, while they have already lost their father. Considering the age and the fact that the deceased being a widow was only leading the family, the Tribunal has rightly calculated the loss of income and has granted a fair and 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 taken only the minimum wage of Rs.3000/- as her monthly income, on deducting 1/3rd towards personal expenses, have granted compensation towards 'loss of dependency' by adopting '13' multiplier, since her age was '50 years'. Hence, this Court finds no merit to interfere with the compensation awarded by the Tribunal, since the same is fair and reasonable.

7. In fine, 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.125 of 2007 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Ariyalur, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay 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 M.P. is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To :

1. The Motor Accidents Claims Tribunal,
Sub Judge, Ariyalur.

2. The Section Officer,
VR Section, High Court, Madras 104.

Copy to:

The Managing Director,
Tamilnadu State Transport Corporation Limited,
Trichy.

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