

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No. 1097 of 2016

&

C.M.P. No. 8197 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kumbakonam Division,
Kumbakonam.

..Appellant

..VS..

1.Mrs. R.Koonthai
2.Minor Kathirvan
3.Minor Aruna
(Minors 2 and 3 are rep.
by mother 1st respondent)

..Respondents

Prayer: Civil Miscellaneous Appeal as against the Judgment and decree dated 02.04.2012 made in M.C.O.P.No.389 of 2009 on the file of Motor Accidents Claims Tribunal (Principal Sub Court), Vridhachalam.

For Appellant :: M/s. V.S.Vijay Veliappan

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation against the Judgment and decree dated 02.04.2012 made in M.C.O.P.No.389 of 2009 on the file of Motor Accidents Claims Tribunal (Principal Sub Court), Vridhachalam.

2. The claimants who are the legal representatives of the deceased filed a claim petition claiming compensation for his death due to the alleged accident that took place on 04.10.2009 in and by which, one Ramalingam, aged 61 years, who travelled as a passenger in the appellant's transportation corporation bus died. The deceased was a Mason. Due to the rash and negligent driving of the bus, the deceased was thrown out of the bus and sustained grievous injuries including fracture. Though he had been treated in three Government hospitals, he succumbed to death on 08.10.2009. The Tribunal by fixing the monthly income of the deceased at Rs.7,500/- and by adopting multiplier '7' and after deducting 1/3rd towards his personal income, has awarded compensation at Rs.4,20,000/- towards loss of dependency and has awarded under other conventional heads and thus granted a sum of Rs.4,45,000/- as compensation to the claimants together with interest at 7.5% per annum. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

3. Learned counsel for the appellant contended that the Tribunal erred in fixing the monthly income without any valid documentary evidence. That apart, in the award there is no discussion about the eye witnesses to the accident and there is a delay of four days in filing the FIR. Hence, he seeks to allow the appeal.

4. I have heard the learned counsel appearing for the Transport Corporation and perused the materials available on record.

5. A bare reading of the award of the Tribunal would reveal that the injured had been treated in three Government hospitals immediately after the accident and subsequently died. The deceased was working as a Mason at the time of accident. The dependants are his wife and two minor children. It is seen that the deceased was thrown out of the bus due to the sudden brake applied by the driver of the transport corporation bus. This has been proved from the evidence of R.W.1, driver of the bus. The deceased as well as his wife are illiterates. Hence, there was a delay of four days in filing the First Information Report. Therefore, I am of not inclined to accept the contention of the learned counsel for the delay caused. Further, no amount had been granted towards future prospects and loss of love and affection. Hence, I am of the view that the award of the Tribunal granting a meager compensation

cannot be found fault with.

6. 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 interest @ 7.5% per annum from the date of claim petition and costs if not already deposited and to the credit of M.C.O.P.No.389 of 2009 on the file of the Motor Accident Claims Tribunal, (Principal Sub Court), Vridhachalam, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the first respondent/claimant is entitled to make necessary application to withdraw her respective share as apportioned by the Tribunal. As far as the respective shares of the minors are concerned, the same shall be invested in a Nationalized Bank under fixed deposit scheme, initially for a period of one year and thereafter, renewed periodically. The first respondent/claimant is permitted to withdraw the interest accrued therein, once in three months. It is made clear that the guidelines given by this Court in C.M.A.No.428 of 2016 vide judgment dated 11.03.2016 should be strictly followed. No costs. Consequently, connected miscellaneous petition is closed.

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.

28.04.2016

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To,

The Principal Sub Judge,
Motor Accidents Claims Tribunal, Vridhachalam.

S. VAIDYANATHAN, J.

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