

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2016

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THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A.No.1819 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram. .. Appellant/ Respondent

Vs

1.Papa
2.Elangovan
3.Murugesan .. Respondents/ Claimants

Prayer: This Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 03.05.2010, made in MCOP.No.863 of 2008, on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur.

For appellant : Mr.P.Paramasivados

For Respondents : Mr.R.Gokulakrishnan

JUDGMENT

This appeal is filed against the judgment and decree dated 03.05.2010, made in MCOP.No.863 of 2008, on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur.

2. On 21.03.2008 at about 1.30 pm., while the deceased Kolanchi was standing on Ramanatham-Tholuthur road in front of Punnaigai tea stall at Ramanatham, a bus bearing Registration No.TN-32-N-1833 belonging to the appellant Transport Corporation driven by its driver in a rash and negligent manner, dashed against the deceased Kolanchi, as a result, the deceased fell down on the road and he sustained grievous injuries all over his body and he died while he was on the way to the hospital. Subsequently, the claimants, who are mother and brothers of the deceased, have filed the claim petition claiming a sum of Rs.5,00,000/- as compensation.

3. After considering the oral and documentary evidence, the Tribunal held that the accident had occurred only due to the

rash and negligent driving of the driver of the transport Corporation and awarded a sum of Rs.3,76,400/- with interest at 7.5% per annum. Aggrieved by the same, the appellant Transport Corporation has filed the present appeal.

4. Learned counsel appearing for the appellant/Transport Corporation questioned the quantum of compensation awarded by the Tribunal and thereby he contended that the amount awarded by the Tribunal is excessive, exorbitant and without any justification. He further submitted that the deceased Kolanchi/blind person, while attempting to get into the bus, has lost his control, for, other passengers, who were standing outside the bus, have also attempted to get into the bus and thereby he fell down in front of the front tyre and thereafter, he died while was on the way to the hospital. However, the Tribunal, without looking into such aspects, has wrongly fixed the negligence only on the driver of the bus belonging to the appellant transport Corporation. Therefore, on this basis, he pleaded to set aside the exorbitant compensation awarded by the Tribunal.

5. Learned counsel appearing for the respondents/claimants submitted that the Tribunal had considered all the relevant materials and evidence on record and came to the right conclusion and awarded a just, fair and reasonable compensation. Hence, the award passed by the Tribunal is in accordance with law and the same has to be confirmed.

6. Heard the learned counsel appearing on either side and perused the materials available before this Court.

7. It is not in dispute that the deceased Kolanchi, while he was standing at the Ramanatham bus stop to board a bus, was hit by a bus belonging to the appellant transport Corporation. However, it is the contention of the appellant transport Corporation that he fell down in front of the front tyre due to the other co-passengers as they were all in an anxiety to get into the bus, therefore, due to the same, the deceased/blind person fell down and then died while he was taken to the hospital. To substantiate such contention, they have not produced any documentary evidence or an eyewitness, whereas it is seen from the Ex.P.1-First Information Report, that the driver of the appellant Transport Corporation was held responsible for the said accident. It is also further seen from the depositions of P.Ws.1 and 2 that the deceased Kolanchi died due to the rash and negligent driving of the driver of the appellant Transport Corporation. Thus, it is clear that the accident had occurred only due to the negligent driving of the driver.

8. By taking note of the above said facts, the Tribunal fixed a sum of Rs.4,000/- as notional monthly income of the deceased and thereby, it has awarded a sum of Rs.3,56,400/- towards loss of income by adopting multiplier '11' and by fixing the age of the deceased as 34 years as seen from the Ex.P2-Postmortem report. The Tribunal has further awarded a sum of Rs.5,000/- each to the claimants towards loss of love and affection and Rs.5,000/- towards funeral expenses, which are, in my view, cannot be held as high compensation for the loss of life of a breadwinner of the claimant's family, who had died at the age of 34 years. Had the deceased not died in the accident, he would have lived for full span of his life and would have contributed substantially to his family by working hard. Therefore, this Court does not find any merit on the appeal preferred by the appellant Transport Corporation.

9. In fine, the Civil Miscellaneous Appeal is dismissed. The appellant-Transport Corporation is directed to deposit the entire award amount of Rs.3,76,400/- along with interest at the rate of 7.5% per annum to the credit of MCOP No.863 of 2008, on the file of the Chief Judicial Magistrate, Perambalur, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw the entire award amount along with the accrued interest therein, by moving appropriate application. No Costs. CMP.No.13432 of 2016 is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1. The Chief Judicial Magistrate,
The Motor Accident Claims Tribunal,
Perambalur.

C.M.A. No.1819 of 2016

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