

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.1968 of 2016

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Division II, Sathuvachari
Vellore .. Appellant/Respondent

-vs-

1. Malarkodi
W/o late Karunanidhi
2. Shoba
W/o Ekambaram
3. K.Devaraji
4. K.Mohanam .. Respondents/Petitioners

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 27.01.2016 made in M.C.O.P.No.142 of 2014 on the file of the Motor Accident Claims Tribunal, (District Judge, District Court II), Kanchipuram.

For Appellant :: Mr.S.Sairaman

JUDGMENT

The Managing Director of Tamil Nadu State Transport Corporation Limited, Division-II, Vellore, questioning the correctness of the impugned award passed by the Motor Accident Claims Tribunal (District Judge, District Court II), Kanchipuram in M.C.O.P.No.142 of 2014 dated 27.1.2016 awarding a sum of Rs.8,13,100/- as the total compensation along with interest at the rate of 7.5% per annum from the date of petition viz., 19.3.2014 till the date of award viz., 27.1.2016 for the loss of life of the breadwinner in the claimants' family, who travelled as a passenger in the bus belonging to the appellant Corporation, has filed this appeal, on the ground that the Tribunal has wrongly fixed the liability on the appellant Corporation in spite of the inconsistent plea taken by the wife of the deceased, which is not corroborating with the version of another passenger who travelled in the same bus. Explaining further, the learned counsel for the appellant Corporation

submitted that the first respondent/wife of the deceased, who was examined as P.W.1, claiming to be one of the passengers travelling along with her husband (since deceased) in the bus belonging to the appellant Corporation at the time of accident, has deposed before the Tribunal that only due to the rash and negligent driving caused by the offending driver of the bus in suddenly stopping the vehicle, her husband fell down and died. Whereas one Kannagi, who was examined as P.W.2, has deposed that on 30.12.2012 at about 4.45 P.M., when she was travelling in the bus which was proceeding from Vellore to Chennai on the Bangalore-Chennai National Highways Road nearer to Ramapuram, one person attempted to vomit at the rear side footboard and at that time the driver of the offending bus drove the vehicle in a rash and negligent/zig-zag manner, as a result the husband of the first respondent fell down from the bus and died. These were denied by the appellant herein. But the Tribunal, without even looking into the inconsistent stand taken by the wife of the deceased with that of the version of P.W.2-Kannagi, has wrongly saddled the liability on the appellant Corporation, for the simple reason that the driver had committed the negligence.

2. The arguments of the learned counsel for the appellant do not merit consideration. The reason is that this Court is not able to find any inconsistency either in the version of P.W.1 or P.W.2. When P.W.1, being the wife of the deceased, has stepped into the witness box before the Tribunal and deposed that while she and her husband were travelling in the offending bus, on the date of accident, only due to the fault of the driver of the offending bus belonging to the appellant in applying the brake suddenly, her husband fell down and succumbed to the injuries. This version indeed goes together with the evidence adduced by another eye-witness, P.W.2-Kannagi, because she had also deposed that when the bus was nearing Ramapuram, one person attempted to vomit at the rear side footboard and at that time the driver of the offending bus drove the vehicle in a rash and negligent/zig-zag manner, as a result the husband of the first respondent fell down from the bus and died. Therefore, the evidence adduced by P.Ws.1 & 2 would clearly show that there was a negligence on the part of the driver of the appellant Corporation while driving the vehicle. When the negligence aspect has been correctly found out by the Tribunal, ultimately the appellant Corporation, which has not taken any policy of insurance, in law, has to bear the liability. Hence the Tribunal, has fastened the liability on the appellant Corporation, after arriving at the monthly income with future prospects of the deceased at Rs.6,900/- and after deducting 1/4th towards personal expenses, by adopting the multiplier '11', in a sum of Rs.6,83,100/- (Rs.5175 x 12 x 11=6,83,100) towards loss of dependancy. Further, the learned counsel for the appellant was unable to satisfy the Court that the fixation of Rs.50,000/- towards loss of consortium and Rs.60,000/- at the rate of

Rs.20,000/- each towards loss of love and affection to the children on the facts of this case, is also unreasonable. The Tribunal has also awarded a sum of Rs.20,000/- towards funeral and transport expenses. Therefore, the contentions of the learned counsel for the appellant Corporation assailing the impugned award cannot be accepted and the award of the Tribunal for a total sum of Rs.8,13,100/- along with interest at the rate of 7.5% per annum payable by the appellant Corporation for the loss of life of the breadwinner, aged about 52 years, in the claimants' family can never be found unreasonable. Accordingly, finding no infirmity with the impugned award, the civil miscellaneous appeal is dismissed. Consequently, C.M.P.No.14258 of 2016 is also dismissed.

3. Since the statutory amount of Rs.25,000/- for preferring appeal has alone been deposited, the appellant Corporation is directed to deposit the entire award amount along with interest thereon to the credit of the M.C.O.P.No.142 of 2014 on the file of the Motor Accident Claims Tribunal (District Judge, District Court II), Kanchipuram within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the respondents/claimants to withdraw the apportioned amount along with accrued interest by moving appropriate applications before the Tribunal.

-s/d-
Assistant Registrar(CSVI)

True Copy

Sub-Assistant Registrar

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To

1. The District Judge
District Court II
Motor Accident Claims Tribunal
Kanchipuram

C.M.A.No.1968 of 2016

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