

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29.09.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2089 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kancheepuram Region,
Kancheepuram.

... Appellant /Respondent

Versus

1.Jayalakshmi
2.Dasarathan
3.K.Malathy
4.Isaivani
5.Vijayalakshmi

... Respondents/Claimants

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgement and decree dated 18.03.2016 made in M.C.O.P.No.2289 of 2012 on the file of the Motor Accident Claims Tribunal, the III Small Causes Court, Chennai.

For Appellant : Mr.K.J.Sivakumar

For Respondents : Mr.V.Velu

O R D E R

सत्यमेव जयते

The Motor Accident Claims Tribunal has awarded a sum of Rs.8,46,500/- for the loss of life of the bread winner of the claimants' family aged about 57 years, who was serving as a Security Guard, receiving a sum of Rs.6500/- as monthly income. It has been fixed as notional monthly income of the deceased.

2. On the question of negligence, quantum of compensation and liability, the Transport Corporation filed the appeal stating that when the deceased was travelling as a passenger, died in the accident occurred on 4.03.2012 at about 8 hours. While he was travelling in the bus belonging to the Transport Corporation from Chengalpet to Pudur, the bus was suddenly stopped and due to jerk, the deceased fell down from the bus and

he was run over. As a result, he sustained fatal injuries. Although, he was admitted in the CMS hospital, Chengalpet from 04.3.2012 to 07.03.2012 subsequently, he was referred to Stanley Government Hospital, Chennai, where he died on 08.03.2012.

3. The learned counsel for the appellant would submit that the Tribunal has wrongly held that the driver of the bus was responsible, only on the basis of Registration of FIR, Ex.P1, in Crime No.276 of 2012 for the offences under Sections 279 and 337 against the driver of the bus that when the bus was stopped and the deceased was intending to alight from the bus, without noticing the same, the driver moved the bus and immediately the deceased has fallen from the bus and sustained injuries. However, the crucial aspect was completely overlooked. Therefore, the learned Tribunal ought not to have reached the conclusion that the driver of the bus alone was responsible in causing the accident.

4. Again touching with the quantum of compensation of Rs.8,46,500/- he would submit that when the deceased was aged about 57 years, without there being any oral or documentary evidence to prove the monthly income, what was claimed in their claim petition as monthly income of the deceased, the Tribunal has blindly accepted the same without even verification of the monthly salary of the deceased.

5. This Court is not able to find any merit on any one of the above submissions for the reasons below:

6(a). Firstly, with regard to the contention that there was a wrong finding against the driver of the offending vehicle belonging to the Transport Corporation, it is admitted that the offending bus belonging to the Transport Corporation was driven by its driver on the fateful day on 04.03.2012 at 8 hours, coming from Chengalpattu to Pudur and it is also not disputed that the deceased was travelling as a passenger in the bus bearing Registration No.TN21 0901 coming from Chengalpattu to Pudur and after reaching Othivakkam bus stop, he was proceeding to get down from the bus. Whereas the driver of the offending bus without even taking care whether the passenger has alighted from the bus, suddenly moved the bus and as a result, due to jerk caused to the passenger, he fell down and finally he was run over by the bus and the same has been properly brought to the notice of the Tribunal by adducing sufficient evidence of PW1.

6(b). The learned Tribunal accepting the evidence of PW1 and taking corroboration of all the contentions in the FIR marked as Ex.P1 on the file of the Chengal Police, Kancheepuram District in Crime No.276/2012 filed against the driver of the offending vehicle belonging to the appellant Transport

Corporation, has rightly answered as to who is responsible in causing the accident. Consequently finding that for the vicarious liability of the tortuous act of the driver, the Transport Corporation has been rightly held liable for compensation.

7. Secondly, the evidence of PW2 shows that the deceased was working as a Security in Security and Intelligence Service (India) Ltd. and earning Rs.6500/- per month at the time of accident, Ex.P6, the identity card issued to the deceased, also shows that he was serving as a Security Staff. More over, the salary slips of the deceased issued by the Security and Intelligence Services (India) Ltd., the employer, were marked as Exs.P5 and P6. In support of these documents, one staff from the employer namely, Mr.Saravanan was examined as PW1, who also deposed that the deceased was getting Rs.6500/- per month.

8. Therefore, the contention placed before this Court that the learned Tribunal has not taken note of the salary aspect of the deceased, is wholly unbelievable. Further, the objections with regard to the salary of the deceased fixing at Rs.6500/- per month are not sustainable. The salary of the deceased is supported by all acceptable evidence namely, Exs.P5 and P9 and also by the oral evidence adduced by PW1 and PW3.

9. The Tribunal, after fixing Rs.6500/- as monthly income of the deceased and after deducting 1/4th salary towards personal expenses, has only arrived at the quantum of compensation and this Court does not find any error to the impugned award. With regard to the contention on multiplier, as the deceased was aged about 57 years at the time accident, as per Sarla Verma Case reported in 2009 2 TN MAC (1) SC, the learned Tribunal rightly adopted multiplier-9, which has to be adopted for the age group from 56 to 60 years and therefore, on this aspect also, this Court is not inclined to find any error in the award.

10. Therefore, this Court is not able to find any merit in the appeal. Accordingly the appeal fails and is dismissed. The award amount as ordered by the Tribunal with interest shall be deposited within four weeks from the date of the receipt of a copy of the order and on such deposit be made, it is open to the claimants to withdraw the same. Consequently the connected C.M.P.No.15225 of 2016 is also dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Presiding Officer
Motor Accident Claims Tribunal,
III Small Causes Court, Chennai.

+1 cc to Mr.V.Velu Advocate sr 56157
+1 cc to Mr.K.J.Sivakumar Advocate sr 55972

C.M.A.NO.2089 of 2016

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