

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2016

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2029 of 2015

C.M.P.Nos.17526 of 2016 & 1 of 2015

The Managing Director,  
TNSTC (Villupuram) Limited,  
No.3/137 Salamedu, Vazhuthareddy,  
Villupuram 605 602 ... Appellant / Respondent

..Vs..

1. A.Ellammal  
2. A.Ganeshan  
3. A.Raman ... Respondents / claimants

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 29.07.2013, made in MCOP No.1820 of 2011 on the file of the Motor Accident Claims Tribunal, III Small Causes Judge, Chennai.

For Appellant : Mr. K.J.Sivakumar

For Respondents : No Appearance

J U D G M E N T

The mother and brothers of the deceased, A.Lakshmanan, made a claim for Rs.8,00,000/- in respect of the death of the deceased aged 28. As against the claim made for a sum of Rs.8,00,000/-, an award has been passed for a sum of Rs.3,50,000/-, as against the respondents herein.

1.1. Challenging both the liability and quantum, the Transport Corporation has filed the Appeal.

2. According to the learned counsel for the appellant, this accident is a case of collision between the Transport Corporation bus and a two-wheeler, bearing Registration No.TN20-AT-9250; the two-wheeler, which was driven at a high-speed, came behind the Corporation vehicle and hit against the bus; an First Information Report has been registered only as against the deceased; the evidence of the driver of the bus implicating the deceased for the cause of accident ought to have been accepted

by the Tribunal and therefore, the appellant should have been exonerated from the liability.

3. Whether this contention can be accepted is the issue to be considered.

4. In respect of the accident, the Tribunal has relied upon the evidence of the eye-witnesses, namely, P.Ws.2 and 3 and has critically analyzed the evidence of P.W.3, who is the owner of the workshop and the workshop is situated near the place of occurrence, therefore, in all probability, the evidence of P.W.3 ought to have been true.

4.1. It is the case of P.W.3 that while negotiating a curve towards right side of the road, the bus alone hit against the two-wheeler, which was taking a straight path.

5. It is contended by the learned counsel for the appellant that the Insurance Company of the two-wheeler is not impleaded as a party.

5.1. This contention is also incorrect, as the deceased person did not allege any negligence on the part of the owner of the two-wheeler and therefore, the Insurer of the two-wheeler is not a necessary party, according to the claimants / respondents. If it is the case of the appellant that the owner and insurer of the two-wheeler are necessary parties, the appellant should have taken steps to implead them also. As such a step has not been taken, it is not open to the appellant to contend that the claimants should have impleaded the Insurer of the two-wheeler as a party to the petition.

6. So far as the quantum is concerned, the income of the deceased has been taken only Rs.5,000/- per month. Adding 50% towards future prospects, loss of income has been fixed at Rs.7,500/-. Deducting 50% towards personal expenses, assessing monthly contribution at Rs.3,750/- and adopting multiplier of '7', loss of dependency is calculated at Rs.3,15,000/-. Allowing funeral expenses at Rs.10,000/-, Rs.25,000/- towards loss of love and affection, total amount awarded is Rs.3,50,000/-. The details of calculation would only go to show that the amount of compensation arrived at by the Tribunal is fair and reasonable.

7. Therefore, this is not a case where interference is called for either on account of negligence or on account of quantum. Hence, the Appeal is liable to be dismissed.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected CMPs are closed.

Sd/-  
Asst.Registrar (CS VI )

/true copy/

Sub Asst. Registrar

To  
The Motor Accident Claims Tribunal, III Small Causes Judge,  
Chennai.

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krd 24/1

C.M.A.No.2029 of 2015  
C.M.P.Nos.17526 of 2016 & 1 of 2015



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