

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 30.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A. NO.1516 OF 2014

The Managing Director,
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan House, Chennai - 600 002.

..... Appellant/Respondent

- Vs -

1. R.Gomathi
 2. Lavanya
 3. Bakya @ Padmavathy
- Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Award and decree dated 18.3.2013 passed by the Motor Accident Claims Tribunal (Chief Small Causes Court), Chennai, made in M.C.O.P.No.2327 of 2010.

For Appellant : Mr.S.Samuvel Rajakumar
for Mr.S.V.Vasantha Kumar

For Respondents : Mr.N. Manokaran

J U D G M E N T

(DELIVERED BY R.SUDHAKAR, J.)

Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents and perused the materials placed before this Court.

2. The appellant/Transport Corporation has filed the appeal challenging the Award dated 18.3.2013 passed by the Motor Accident Claims Tribunal (Chief Small Causes Court), Chennai, made in M.C.O.P.No.2327 of 2010.

3. It is a case of fatal accident. On 01.01.2010 at about 10.10.a.m., when the deceased Rajan Babu, was travelling as SPG conductor in the appellant Transport Corporation Bus bearing Registration No.TN-01-N-8096 from Uttukottai to Red Hills, the driver of the said bus drove the bus in a rash and negligent

manner, as a result, the deceased was thrown out of the bus and sustained head injury. Immediately, the deceased was admitted in the Government Hospital, Chennai and thereafter, he was transferred to Kilpauk Apollo Hospital, where he died on 05.01.2010. Hence, the claimants, who are wife, aged 43 years, daughters aged 24 and 21 years respectively have filed claim petition claiming a sum of Rs.30,00,000/- as compensation. According to the claimants, the deceased was working as SPG Conductor in Metropolitan Transport Corporation, Madhavaram Bus Depot and was earning a sum of Rs.16,532.95 per month.

4. In support of the claim petition, the wife of the deceased was examined as P.W.1; one Nagendra Babu, was examined as P.W.2 and one padmanaban was examined as P.W.3 and Exs.P-1 to P-19 were marked, the details of which are as follows:-

Ex.P-1	Copy of FIR
Ex.P-2	Copy of rough sketch
Ex.P-3	Copy of charge sheet
Ex.P-4	Report of investigation on deceased
Ex.P-5	Series medical records
Ex.P-6	Medical Bills
Ex.P-7	Discharge intimation
Ex.P-8	Death report
Ex.P-9	Copy of postmortem certificate
Ex.P-10	Death certificate
Ex.P-11	Legal heirship certificate
Ex.P-12	Conductor certificate of deceased
Ex.P-13	Series Salary slips
Ex.P-14	Voter identity card of deceased
Ex.P-15	Death certificate of mother of deceased
Ex.P-16	Copy of family card of P.W.2
Ex.P-17	Copy of family card of P.W.3
Ex.P-18	Copy of identity card of P.W.3
Ex.P-19	Copy of pension particulars of P.W.3

5. On the side of the respondents, Mr.Munusamy, the driver of the appellant Transport Corporation bus was examined as R.W.1, however, no document was marked.

6. The Tribunal based on the oral evidence of witnesses, the F.I.R. and also taking into account the documentary evidence and further there being no satisfactory evidence adduced on behalf of the appellant/Transport Corporation to refute the evidence as to the rash and negligent driving of the bus, came

to the conclusion that the accident was caused due to the rash and negligent driving by the driver of the bus, and therefore, the liability was fixed on the appellant and consequently the appellant was directed to compensate the claimants.

7. Accordingly, the Tribunal has awarded compensation under the following heads:-

Loss of pecuniary benefits	-	Rs.18,91,384/- (Rs.1,71,944 x 11)
Loss of consortium	-	Rs. 1,00,000/-
For Love and affection	-	Rs. 20,000/-
Funeral Expenses	-	Rs. 10,000/-
Medical Expenses (Ex.P.6)	-	Rs. 78,000/-
Total Compensation	-	Rs.20,09,384/-

8. In all, the Tribunal awarded a compensation of Rs.20,09,384/- with interest at the rate of 7.5% from the date of the petition till the date of payment. Aggrieved by the said award, the appellant - Transport Corporation is before this Court by filing this appeal.

9. Learned counsel appearing for the appellant submits that the deceased was standing on the foot board and suddenly fallen down from the bus due to illness and sustained head injury. Hence, the negligence is on the part of the deceased and not on the part of the driver, who drove the bus. He further submitted that the pecuniary loss awarded by the Tribunal and compensation granted towards medical expenses are on the higher side.

10. Per contra, it is submitted by the learned counsel for the respondents/claimants that due to the sudden brake applied by the driver, the deceased fallen down and sustained head injury. Further, the postmortem certificate did not reveal any illness suffered by the deceased at the time of accident. Hence, the Tribunal has correctly fixed the negligence on the part of the driver. He further submitted that taking into consideration the salary slips of the deceased, which is marked as Ex.P.13, the Tribunal had correctly awarded compensation and further the Tribunal has awarded compensation towards Medical Expenses based on the medical bills marked as Ex.P.6. Therefore, no interference is called for with the well considered finding of the Tribunal.

11. This Court has given its careful consideration to the above contentions advanced by either parties and also perused the materials available on record.

12. It is seen that the Tribunal based on the medical records, viz., Ex.P.5 found that the deceased was not suffering from any illness. Further it is admitted by the driver, who drove the bus that he applied sudden brake. Further, a case has been registered against the driver of the bus for rash and negligent driving and after investigation, charge sheet has also been filed. It is to be noted that no document has been filed to substantiate the plea of the appellant that the deceased had fallen down due to the illness he suffered. The postmortem certificate shows that the deceased would appear to have died due to the effects of head injury. Hence, we do not find any material to come to a different conclusion from that of the conclusion arrived at by the Tribunal.

13. With regard to the contention of the learned counsel appearing for the appellant that the pecuniary loss granted by the Tribunal and the medical expenses granted by the Tribunal are on the higher side, we find that the Tribunal has fixed the monthly income based on the salary slips of the deceased, who was an employee of the appellant Transport Corporation only. Further, the accident had happened on 01.01.2010 and the deceased died on 05.01.2010 in the hospital and he was given treatment from 01.01.2010 and 05.01.2010. Hence, the claimants would have incurred medical expenses.

14. Accordingly, finding no merit in this Civil Miscellaneous Appeal, the same stands dismissed and the award of the Tribunal stands confirmed. Learned counsel appearing for the appellant submits that this Court by order dated 09.06.2014 directed the appellant to deposit 50% of the award amount and thereafter, this Court by order dated 20.10.2014, permitted the claimants to withdraw the same. Learned counsel appearing for the appellant seeks time to deposit the balance award amount. The appellant is granted eight weeks time to deposit the balance award amount, less the amount, if any deposited already, along with interest and costs. On such deposit being made, the claimants are permitted to withdraw the balance amount. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1. The Registrar,
Motor Accident Claims Tribunal
Small Causes Court,
Chennai.
2. The Record Keeper
V.R. Section
High Court, Madras.

1 cc to Mr.S.V. Vasantakumar, Advocate, Sr. 20279
1 cc to Mr.N. Manokaran, Advocate, Sr. 20025

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TEJ (CO)
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