

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15/4/2016

C O R A M

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.864 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
(Salem) Limited
Regional Office at Bharathipuram
Dharmapuri. Appellant/1st Respondent.

Vs

1. V. TamilSelvi
2. M. Pugalendhi
3. M. Sakunthala
4. M. Parthasarathy 1 to 4 Respondents/Petitioners
5. C.H.Naveen
6. The Branch Manager
National Insurance Company Limited
Branch Office at First Floor
No.27-33-31 Kudavallavari
Vijayawada
Krishna District
Andhra Pradesh 520 002..... 5&6 Respondents/2&3rd Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor vehicles Act, 1988 against the judgment and decree dated 8/1/2013 made in M.C.O.P.No.594 of 2010 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri District, Krishnagiri.

For appellant

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Mr.D.Venkatachalam

O R D E R

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri in M.C.O.P.No.594 of 2010 dated 8/1/2013.

2. It is a case of fatal accident. On 12/7/2009 at about 01.00 hours, the deceased was travelling in the TNSTC bus bearing Registration No.TN29N-2097 belonging to the appellant/first respondent as Duty Conductor and getting a salary of Rs.16,283/- p.m. When the said bus was proceeding in Krishnagiri to Salem NH road towards Salem, near Kaveripattinam Pothapuram Fly Over, the driver of the said bus, who drove the bus in a rash and negligent manner, dashed behind a parking lorry bearing Registration No.AP16TW-8816 belonging to the fifth respondent/second respondent and insured with the sixth respondent/third respondent which was also negligently parked on the road, without applying any light signals. As a result of which the deceased, who was sitting in his seat, has sustained fatal injuries on his vital organs and died on the spot itself. The wife and the children who are the claimants have filed a claim petition before the Tribunal seeking compensation of a sum of Rs.50,00,000/-.

3. The Tribunal taking note of the income of the deceased, fixed the income of the deceased as Rs.12,612/- p.m., and adopted the multiplier at 11 and after deducting 1/3rd towards personal expenses, awarded compensation of Rs.10,21,080/- together with interest at 7.5% p.a.

4. The learned counsel appearing for the appellant would submit that the accident had occurred due to the carelessness on the part of the driver of the lorry. The Tribunal ought to have considered the evidence of R.W.1, who had deposed that the accident had occurred only due to the carelessness on the part of the driver of the lorry. Based on these, the learned counsel for the appellant has sought for allowing of the Civil Miscellaneous Appeal.

5. This Court heard the submissions made by the learned counsel for the appellant and perused the materials available on record.

6. A cursory glance of the award would make it clear that the Tribunal had rightly apportioned the negligence against both vehicles. The Sub-Inspector of Police had been examined as R.W.1, who had categorically stated that the accident had occurred due to the fault of both vehicles and the charge sheet

has been laid against the driver of the bus alone. Thus, the Tribunal had rightly fixed the negligence against both the drivers as 50 - 50.

7. In view of the above finding, the award of the Tribunal in granting compensation to the legal representatives of the deceased cannot be said to be excessive. Hence this Court finds no reason to interfere with the compensation awarded by the Tribunal and hence the appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

8. The Appellant Transport Corporation is directed to deposit the entire award amount together with proportionate costs and interest @ 7.5% p.a., from the date of claim petition, before the Tribunal, if not already deposited, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the respondents herein/claimants are entitled to make necessary applications to withdraw the same as apportioned by the Tribunal.

mvs.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

The Motor Accident Claims Tribunal,
Principal District Judge,
Krishnagiri District,
Krishnagiri.

+ 1 cc to Mr.D.Venkatachalam, Advocate SR 24431

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