

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2016

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THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.871 of 2016

&

C.M.P. No. 7028 of 2016

The Managing Director
Metropolitan Transport Corporation Ltd.,
No.2, Pallavan Salai,
Chennai 2 ..Appellant/Plaintiff

Vs.

1. Shaik Habebun Nisha
2. Shaik Kareemun Nisha
3. Shaik Mahabub Ali ..Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed u/s. 173 of MV Act 1988 against the Judgment and decree dated 06.09.2014 made in M.C.O.P. No. 5331 of 2011 on the file of Motor Accidents Claims Tribunal (II Judge, Court of Small Causes), Chennai.

For Appellant :: Mr.S.S.Swaminathan

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the judgment and decree dated 06.09.2014 made in M.C.O.P. No. 5331 of 2011 on the file of Motor Accidents Claims Tribunal (II Judge, Court of Small Causes), Chennai.

2. On 05.05.2010, at the Central Railway Station Campus bus stop, when the deceased was about to get into the MTC Bus bearing Registration No.TN 01 N 8285, due to the sudden driving of the driver of the bus, the deceased was thrown out from the bus, resulting in fatal injuries on the deceased and he died on the same day.

3. Claiming compensation, the wife, daughter and son, who are the legal representatives of the deceased Shaik

Meeravali, have approached the Tribunal for the loss of life of said Shaik Meeravali, who met with an accident on 05.05.2010, claiming compensation to the tune of Rs.10,00,000/- restricted to Rs.6,00,000/-

4. The Tribunal based on the oral evidence of the witnesses, and the documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Pecuniary loss	Rs.5,72,052/-
2	Loss of consortium	Rs.1,00,000/-
3	Loss of love and affection towards 2 &3 claimants	Rs. 50,000/-
6	Funeral expenses	Rs. 25,000/-
	Total	Rs.7,47,052/-

5. The main contention of the learned counsel for the appellant/Corporation is that there is negligence on the part of the deceased who met with the accident and died. He was a footboard traveller without minding the consequences. It is his contention that inspite of the advice of the driver of the bus to enter into the bus, the deceased paid no heed and when the bus crossed the speed breaker slowly, the deceased lost his control and sustained fatal injuries. Since the deceased is solely responsible for the accident, no compensation ought to have been granted by the Tribunal.

6. This Court heard the submissions of the learned counsel for the appellant and perused the materials available on record.

7. A cursory glance of the award would make it clear that there was clear evidence, which can be noticed from the FIR that while the deceased was entering into the bus, the driver suddenly took the bus with higher speed, thereby the deceased fell and sustained fatal injuries and died on the same day at Rajiv Gandhi Government General Hospital, Chennai and it was due to the rash and negligent driving of the driver of the bus. Admittedly, there is no other evidence on the side of the appellant to corroborate the evidence of R.W.1. Hence the contention of the appellant that there was negligence on the part of the deceased cannot be accepted. Further, based on the postmortem certificate, the age of the deceased was taken as 50 years and the Tribunal has fixed the monthly income at

Rs.5,500/- and after deducting 1/3rd towards personal expenses, granted the pecuniary loss of a sum of Rs.5,72,052/- by adopting 13 multiplier. Apart from that the Tribunal has awarded a sum of Rs.1,00,000/- towards loss of consortium and a sum of Rs.25,000/- each towards loss of love and affection and arrived at a compensation of a sum of Rs.7,47,052/- and apportioned the amount payable to the legal representatives of the deceased. Hence, 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. 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% per annum 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.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The II Judge, Court of Small Causes
Motor Accidents Claims Tribunal, Chennai.

2. The Registrar,
Court of Small Causes,
Chennai.

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C.M.A. No. 871 of 2016

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