

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.995 of 2016
&
C.M.P. No. 7560 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Railway Station Road,
Kumbakonam ... Appellant/Respondent

Vs.

Murugesan (died)
1.Saroja
2.Saradha
3.Madhiyazhagan
4.Thamayandhi ... Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal as against the order and decreetal order dated 06.11.2012 made in M.C.O.P. No.272 of 2008 on the file of Motor Accident Claims Tribunal, Subordinate Judge, Ariyalur.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the order and decreetal dated 06.11.2012 made in M.C.O.P. No.272 of 2008 on the file of Motor Accidents Claims Tribunal, Subordinate Judge, Ariyalur.

2. In an accident that took place on 09.08.2008 at 5.00 a.m., when the said Murugesan, his son Mathialagan and the other loadman of the said Murugesan were riding bullock cart on Kumbakonam Chennai Road, near Petrol Bunk of Senganur, the driver of the appellant's bus bearing Reg.No.TN 49 N 1286 drove in a rash and negligent manner and dashed against the cart, due to which, two bullocks died on the spot on account of fatal injuries and the said Murugesan has sustained multiple grievous injuries all over the body including fracture in clavicle (R). The injured Murugesan had approached the Tribunal claiming compensation to the tune of Rs.3,00,000/-.

3. It is seen that during the pendency of the claim petition, the said Murugesan died on 01.01.2011 and the legal representatives of the said Murugesan were brought on record.

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

Sl.No	Head	Amount granted by the Tribunal
1	Medical Expenses for the deceased Murugesan	Rs. 30,000/-
2	Medical Expenses as per Ex.P12	Rs. 7,326/-
3	Loss for the death of two bullocks	Rs. 30,000/-
4	Damages for bullock cart (Ex.P11)	Rs. 38,000/-
5	Transportation charges (Ex.P10)	Rs. 6,200/-
6	Extra nourishment	Rs. 5,000/-
7	Pain and Sufferings	Rs. 5,000/-
	Total	Rs. 1,21,526/-

5. Aggrieved over the said award, the Transport Corporation has come forward with this Civil Miscellaneous Appeal.

6. The main contention of the learned counsel for the appellant/Corporation is that the Tribunal failed to consider the evidence of RW1-driver of the bus. He further contended that the accident occurred only due to riding the bullock cart in a dark place so that the bullocks were frightened and dashed against the bus and it is not the negligence on the part of the driver of the bus. It is further contended that the Tribunal has awarded an exorbitant sum of Rs.30,000/- towards loss of bullocks, a sum of Rs.38,000/- towards damage of Bullock Cart and that a sum of Rs.30,000/- towards medical expenses has to be reduced. Hence, he prayed for interference of this Court and in any event, according to him, the compensation should be reduced.

7. A glance of the award of the Tribunal would make it clear that in the pendency of the claim petition, in pursuance to the accident on 09.08.2008, the injured died on 01.01.2011 due to fracture in clavical and other injuries sustained in the accident. It is also seen that the injured was given firstaid treatment at Government Hospital, Kumbakonam, then he was referred to TMCH, where he was admitted as inpatient from 09.08.2008 till 27.08.2008 and thereafter, he has taken treatment in several private hospitals and had spent huge amount for medical treatment. Taking note of the fact that the accident took place in 2008, the injured claimed damages to the bullock cart and two bullocks were died and fact that the injured who subsequently died had suffered fracture in Clavical, the compensation awarded by the Tribunal 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 to the credit of M.C.O.P.No.272 of 2008 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Ariyalur, if not already deposited, within a period of six 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 application to withdraw the same as apportioned by the Tribunal.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Sub Judge,
Motor Accidents Claims Tribunal,
Ariyalur.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.26521

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&
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RSK(CO)
CA(20/07/2016)

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