

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1201 of 2007

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.
Villupuram Division II,
Vellore.

..Appellant/Respondent No.I

Vs.

1. Kaliaperumal
2. Saroja
3. Mahalakshmi
4. Rajeswari
5. The Oriental Insurance
Company Ltd.,
Pondicherry.

..Respondents/Petitioners &
respondents 2&3

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 19.04.2006 made in M.A.C.T.O.P No.937 of 2004 on the file of the Motor Accidents Claims Tribunal, II Additional Sub Court, Cuddalore.

For Appellant : Mr.S.V.Vasantha Kumar

For Respondents 1&2: Mr.N.Damodaran

R3 to R5 : Disd vide this Court order dt.23.09.2015

J U D G M E N T

The Transport Corporation has come up with this appeal mainly challenging the negligence fixed by the Tribunal.

2. Heard the learned counsel for the appellant/Transport Corporation and the learned counsel appearing for respondents 1 and 2.

3. This is a case of fatal. On 21.06.2000, about 5.45 p.m., when one Pulavendran, was travelling in a Mini Lorry bearing Registration No.TSB-3299, as owner of goods, towards Kullanchavadi from Neyveli Township, near the western side of the Arch Gate Neyveli Township, a Bus bearing Registration No.TN-27-N-0885 belonging to the appellant Transport Corporation came in the opposite direction in a rash and

negligent manner and dashed against the Mini Lorry, as a result of which, the said Pulavendran died. Seeking a sum of Rs.15,00,000/- as compensation for his death, the parents and sister of the deceased filed a claim petition before the Tribunal. According to the claimants, the deceased was aged 26 years at the time of accident and he was carrying on agricultural activities and tender coconut business and earning a sum of Rs.10,000/- per month.

4. Before the Tribunal, the father of the deceased, one Kaliyaperumal was examined as P.W.1; one Kumar, who witnessed the accident was examined as P.W.2 and one Devarajan was examined as P.W.3. On behalf of the claimants, Exs.P1 to P5 were marked. Though no documents were marked on the side of the Transport Corporation, one Panchatcharam, Checking Inspector in the Transport Corporation was examined as R.W.1.

5. The Tribunal on consideration of the oral and documentary evidence, held that the accident occurred due to the rash and negligent driving of the Driver of the appellant/Transport Corporation Bus and awarded a sum of Rs.4,25,000/- as compensation to the claimants. Details of the award are thus:

Heads	Amount
Loss of dependency	Rs.3,60,000.00
Funeral expenses	Rs. 5,000.00
Loss of love and affection	Rs. 60,000.00
Total	Rs.4,25,000.00

6. Though, the learned counsel appearing for the appellant/Transport Corporation contended that the quantum awarded by the Tribunal is excessive, he mainly disputed the negligence fixed by the Tribunal on the Driver of the appellant/Transport Corporation. It is his contention that the Tribunal failed to take into consideration the F.I.R., wherein, it is clearly mentioned that the accident took place only due to the rash and negligent driving of the Mini Lorry Driver.

7. On a perusal of the records, it is seen that the Driver of the appellant/Transport Corporation Bus made a complaint about the accident and only on that basis, a case was registered against the Driver of the Mini Lorry. Though according to the appellant/Transport Corporation, the accident had occurred due to the rash and negligent driving of the Driver of the Mini Lorry, their contention is not supported by appropriate evidence. Only the Checking Inspector of the appellant/Transport Corporation was examined as R.W.1 and in his examination, he has stated that he has no personal

knowledge about the accident. In the absence of any contra evidence against the Driver of the Mini Lorry, the Tribunal cannot be found fault with as regards fixation of negligence on the Driver of the appellant/Transport Corporation. Hence, this Court confirms the finding of the Tribunal as regards negligence.

8. Coming to the quantum of compensation, though there is not much dispute, this Court finds no error in the same, as the Tribunal has rightly taken into consideration the age of the parents while fixing the multiplier to compute compensation towards 'Loss of Dependency'. Also the compensation awarded under the heads, 'Funeral expenses' and 'Loss of love and affection' are just and reasonable.

9. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the negligence as also the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. It is made clear that if no amount is deposited so far, the appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.937 of 2004 on the file of the Motor Accidents Claims Tribunal, II Additional Subordinate Judge, Cuddalore, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, connected M.P.No.1 of 2007 is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

सत्यमेव जयते

Sub Assistant Registra

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To :

The Motor Accidents Claims Tribunal,
II Additional Subordinate Judge,
Cuddalore.

+ 1 cc to Mr.S.V. Vasanthakumar, Advocate Sr.25114

C.M.A.No.1201 of 2007

MSM(CO)

EU 18.10.16