

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 22.03.2016

CORAM

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

C.M.A. NO. 1381 OF 2013
AND

M.P. NO. 1 OF 2013

The Managing Director
Tamil Nadu State Transport
Corporation Ltd.
Villupuram.

... Appellant/1st Respondent

- Vs -

1. Smt. Sudha
2. S.Balamurugan (Minor)
3. S.Ranjith (Minor)
4. Sathish Kumar (Minor)
5. Smt. Lakshmi

(RR-2 to 4 rep. by mother
and natural guardian R-1) ... Respondents/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 28.4.2011, passed by the Motor Accident Claims Tribunal, Sub Court, Chidambaram, made in MCOP No.299 of 2006.

For Appellant : Mr. S.V.Vasanthakumar

For Respondents: Mr. S.Kumaradevan

JUDGMENT

(DELIVERED BY R.SUDHAKAR, J.)

Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents/claimants.

2. The appellant/Transport Corporation has filed the appeal challenging the award dated 28.4.2011, passed by the Motor

Accident Claims Tribunal, Sub Court, Chidambaram, made in MCOP No.299 of 2006.

3. It is a case of fatal accident. On 26.3.06, at about 1.00 p.m., when the deceased Singaram, aged about 33 years, was riding his Bullet motorcycle bearing Regn. No.NTN - B - 1083 along with his sister's son, Mahendraverman as pillion rider, the bus, belonging to the appellant/Transport Corporation, bearing Regn. No.TN-32-N-1819, driven by its driver in a rash and negligent manner, coming in the opposite direction, hit the motorcycle on which the deceased was riding, due to which the deceased along with the pillion rider, were thrown away from his motorcycle and suffered grievous injuries. The deceased as well as the pillion rider, Mahendraverman were treated at the Chidambaram Annamalai Nagar O.P. Hospital. However, about 7.00 p.m. on the same day, the deceased succumbed to the injuries sustained in the accident and died. A case was registered in relation to the said accident.

4. The deceased, on the date of accident, was working as a Mason and earning a salary of Rs.15,000/= per month. The respondents, viz., the wife, children and mother of the deceased have filed the claim petition claiming a sum of Rs.20,00,000/= as compensation.

5. In support of the claim, the first claimant, viz., the wife of the deceased was examined as P.W.1. One Ravichandran and Ravi, eye witnesses to the occurrence were examined as P.Ws.2 and 3 and Exs.P-1 to P-11 were marked, the details of which are as follows:-

Ex.P-1	-	Copy of FIR
Ex.P-2	-	Motor Vehicle Inspector report in respect of TN-32-N-1819
Ex.P-3	-	Motor Vehicle Inspector report in respect of TNP-1083
Ex.P-4	-	Post-mortem report
Ex.P-5	-	Death Certificate of the deceased
Ex.P-6	-	Copy of the rough sketch of the place of occurrence
Ex.P-7	-	Legal Heir Certificate
Ex.P-8	-	Identity Card issued to the deceased issued by the Building Contractors Association
Ex.P-9	-	Copy of the order of the Add. District Court, Chidambaram in MACTOP No.42/2008

Ex.P-10	-	Copy of the order of the Add. District Court, Chidambaram in MACTOP No.42/2008
Ex.P-11	-	Work certificate issued by R.S.Constructions, Chidambaram certifying that the deceased was employed with it.

6. On the side of the respondents, neither any witnesses were examined nor any documents were marked.

7. The Tribunal based on the oral evidence of the P.W.1, the F.I.R. and also taking note of the corroborating evidence in the form of the evidence of P.Ws.2 and 3, eye witnesses to the occurrence, which has been adduced to prove that the bus was driven in a rash and negligent manner coupled with the other documentary evidence and further there being no evidence adduced on behalf of the appellant to refute the eye witness testimony 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 herein and consequently the appellant was directed to compensate the claimants.

8. Accordingly, the Tribunal awarded a compensation of Rs.17,56,000/= with interest at the rate of 7.5% from the date of claim petition till date of payment/deposit with appropriate apportionment of the same between the claimants. Aggrieved by the said award, the appellant/Transport Corporation is before this Court by filing this appeal.

9. Learned counsel appearing for the appellant/Transport Corporation submits that rashness in driving and negligence is also attributable to the deceased as he drove the vehicle in a rash and negligent manner. Therefore, contributory negligence has to be fixed on the deceased as well and the quantum of compensation awarded has to be interfered with.

10. Though such a plea has been taken by the learned counsel for the appellant/Transport Corporation, no evidence, either oral or documentary has been let in to show that the deceased drove the vehicle in a rash and negligent manner. Contrary to the said plea, the Tribunal came to hold that the evidence of the eye witnesses, viz., P.W.s 2 and 3 clearly show that in a bush thoroughfare, the bus belonging to the appellant was driven in a rash and negligent manner and it is the driver of the bus alone, who is responsible for the accident. On the strength of such a finding, this Court is of the considered opinion that there is no reason to differ with the said finding arrived at by the Tribunal on the question of negligence.

11. Insofar as the quantum of compensation is concerned, there is no serious dispute raised by the appellant. The Tribunal has adopted the multiplier of 17 and arrived at the compensation for the loss of income and also awarded compensation under other heads. The compensation on all the heads awarded by the Tribunal, in the considered opinion of this Court, is just and reasonable.

12. In the result, this Civil Miscellaneous Appeal is dismissed. The appellant/Transport Corporation is directed to deposit the entire award amount as above, along with interest and costs to the credit of MCOP No.299 of 2006 within a period of eight weeks from today. On such deposit, the respondents are entitled to withdraw the same in accordance with law. Consequently, connected miscellaneous petition is closed. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

GLN

To
The Sub Judge,
(Motor Accident Claims Tribunal)
Chidambaram.

1 cc to Mr.S.V.Vasanthakumar, Advocate, sr.18188
1 cc to M/s.S.Kumaradevan, Advocate, sr.18128

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