



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.02.2016**

CORAM:

THE HONOURABLE MS.JUSTICE **V.M.VELUMANI**

CMA.(MD)No.111 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakoan Division II) Limited,
Periyamilaguparai, Collector's Office Road,
Trichy-1. : Appellant/Respondent

Vs.

1.Dhanapakkiyam
2.Bakkiyalakshmi
3.Rukkumani
4.Perumal : Respondents/Petitioners

Appeal filed under Section 173 of Motor Vehicles Act 1988, to allow this appeal, set aside the judgment and decree, dated 03.09.2015 made in M.C.O.P.No.5 of 2013 on the file of the Motor Accident Claims Tribunal/Principal District Court, Karur.

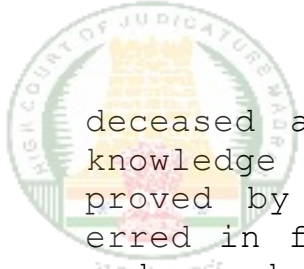
For Appellant : Mr.P.Prabhakaran

ORDER

This appeal is against the order, dated 03.09.2015 made in MCOP.No.5 of 2013. The respondents filed a claim petition claiming a sum of Rs.7,00,000/- for the death of Ramasamy, who is the husband of the first respondent and father of the respondents 2 to 4, in the accident occurred on 28.12.2012. The respondents claimed compensation stating that the deceased died due to rash and negligent driving of the bus belonging to the appellant. The same was contested by the appellant and also with regard to the quantum of compensation claimed by the respondent. The respondent examined three witnesses as P.W.1 to P.W.3 and marked 4 documents and appellant examined three witnesses and marked two documents.

2.The learned Judge considering the pleadings, evidence and arguments, awarded a sum of Rs.4,11,000/- as compensation. Against the said award, the appellant has filed the present appeal.

<https://hcservices.courts.gov.in/hcservices/>
3.The learned counsel for the appellant submitted that the accident occurred only due to negligence on the part of the



deceased as he tried to get down from the moving bus without knowledge of the driver and conductor of the bus. This fact was proved by the appellant by cogent evidence. The learned Judge erred in fixing the monthly income of the deceased at Rs.6,000/- and awarded a compensation, which is excessive and exorbitant. The amount awarded towards consortium is also excessive and exorbitant and prayed for allowing the appeal. The complaint given against the driver of the bus was dropped without further action.

4. Heard Mr.P.Prabhakaran, learned counsel appearing for the appellant.

5. The learned Judge considering the pleadings and evidence came to the conclusion that the accident occurred only due to rash and negligent driving by driver of the bus belonging to the appellant. The learned Judge considering all the materials accepted the contention of the respondent with regard to negligence on the part of Driver of appellant and fixed the income as per the judgment of Hon'ble Apex Court as well as this Court. The calculation arrived at also as per the well settled judicial pronouncement. Considering the age of the deceased, the amount awarded towards love and affection and consortium is not excessive and exorbitant. There is no circumstances warranting interference by this Court.

6. In the result, the Civil Miscellaneous Appeal is dismissed and the award of the Tribunal is confirmed. No costs.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal/Principal District Court,
Karur.

+one cc to M/s.P.Prabhakaran, Advocate in SR.No.10147

am

CSL/SKS-RR/29.04.2016 : 2p/3c

CMA. (MD) No.111 of 2016