



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A.No.521 of 2016

and

C.M.P. (MD) No.6435 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Railway Station Road,
Division - 1,
Kumbakonam.

.. Appellant/Respondent

Vs.

1.Thillaiyammal
2.Shanthi
3.Kalyani
4.Vasanthi

..Respondents/Petitioners

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment passed in M.C.O.P.No.317 of 2007 dated 25th day of March 2010 on the file of the Motor Accident Claims Tribunal cum Subordinate Court, Pattukkottai.

For Appellant : Mr.M.Prakash

J U D G M E N T

This Civil Miscellaneous Appeal is directed under Section 173 of Motor Vehicles Act, 1988, by the Tamil Nadu State Transport Corporation, as against the award dated 25.03.2010 made in M.C.O.P.No.317 of 2007 on the file of the Motor Accident Claims Tribunal (Sub Judge) Pattukottai.

2. Heard the learned counsel appearing for the appellant/Transport Corporation and perused the records.

3. The facts in nutshell:

According to the claimants, on 26.02.2007 at 06.10 a.m when the deceased Thangavel was standing in front of Kottaikulam bus stop, a bus bearing registration No. TN 49 N 1547 came in a rash and negligent manner hit him. In the impact, he sustained injuries and he was taken to Pattukkottai Government Hospital, where he was pronounced dead. The legal heirs of the deceased Thangavel laid a petition claiming compensation of



Rs.10 lakhs. The claim was resisted by the appellant disputing the manner of accident, age and income of the deceased. It was further contended that the vehicle was not at all involved in the accident.

4. Before the tribunal, on the side of the claimants, 2 witnesses were examined and Exs.P1 to P6 were marked and on the side of the appellant, 3 witnesses were examined and Exs.R1 to R3 were marked.

5. The second claimant was examined as P.W.1, but she is not an eye witness to the occurrence. P.W.2 Shanmugasundaram has deposed that on 26.02.2007 at 06.00 a.m when he was standing near the bus stop at Kottaikulam, the bus belongs to the appellant Transport Corporation came in a high speed and dashed against the deceased Thangavel. Ex.P.1 the First Information Report and Ex.P6 Charge sheet would show that a criminal case was registered against the driver of the bus. The Tribunal, based on evidence of P.W.2 and Exs.P1 and P.4, held that the deceased died due to the accident caused by the driver of the bus.

6. P.W.1 has given evidence stating that her father Thangavel was doing fish business and he earned Rs.4,000/- per month. Ex.P.2 Postmortem report shows that the deceased was 55 years old at the time of accident. The Tribunal fixed notional income at Rs.6,000/- and after deducting 1/3 rd towards his personal expenses held that he has contributed Rs.24,000/- per annum to his family. Following the Second Schedule of Section 163 (A) of the Motor Vehicles Act, 1988, the Tribunal had adopted multiplier of 8 and awarded Rs.1,92,000/- towards loss of dependency (24,000 X 8), Rs.5,000/- towards funeral expenses and Rs.10,000/- towards loss of love and affection. Totally, the Tribunal has awarded Rs.2,07,000/- together with interest at the rate of 7.5% per annum.

7. The Tribunal had awarded certain amount under the following heads:

Heads	Amount
Loss of income	Rs. 1,92,000/-
For funeral expenses	Rs. 5,000/-
Loss of love and affection	Rs. 10,000/-
Total	Rs. 2,07,000/-

Challenging this amount, the appellant/Transport Corporation has filed this appeal.

<https://hcservices.ecourts.gov.in/hcservices/> the considered opinion of this Court, the award passed by the Tribunal is fair and reasonable and the same is confirmed.



9. The appellant Transport Corporation is directed to deposit the entire award amount, less the amount if any already deposited, with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgment. On such deposit being made, the respondents 1 to 4/claimants are entitled to withdraw the entire award amount along with proportionate interest and costs as per the ratio allotted by the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected C.M.P.(MD) No.6435 of 2016 is also dismissed.

Sd/-
Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To,
The Motor Accident Claims Tribunal,
Subordinate Judge, Pattukkottai.

+1cc to Mr.M.Prakash, Advocate SR.No.34627

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C.M.A. (MD) No.521 of 2016
and C.M.P. (MD) No.6435 of 2016