



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2016

CORAM:

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

C.M.A.(MD)Nos.547 to 549 of 2016

and

C.M.P.(MD)Nos.6574, 6575 and 6576 of 2016

Tamil Nadu Transport Corporation,
Through its Managing Director,
Marudhipatti Nagar,
Karaikudi,
Sivagangai District.

... Appellant in all the C.M.As./Respondent
Vs.

- 1.R.Veera Sakthi
- 2.Sethu Pandi
- 3.Murugan

... Respondents in all the C.M.As./Petitioner

Common prayer: Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.1529, 834 and 837 of 2006 dated 21.02.2014 on the file of the Motor Accidents Claims Tribunal, VI Additional District Court, Madurai.

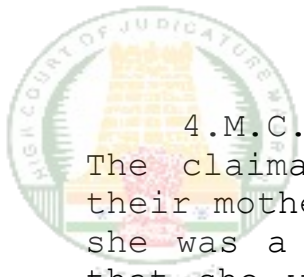
For Appellant : Mr.D.Sivaraman

COMMON JUDGMENT

These appeals arise out of the common judgment passed by the Motor Accident Claims Tribunal, VI Additional District Court, Madurai in M.C.O.P.No.1529, 834 and 837 of 2006.

2.The case of the claimants is that the parents and sister of the claimants were travelling in a bus bearing registration No.TN 63 N 772 on 25.11.2005 from Karaikudi to Ramanathapuram. The driver, who drove it in a negligent manner, lost control of the vehicle, eventually the bus capsized on the road side river water. Due to the accident, three persons died. The appellant resisted the claim contending that on 25.11.2005 when the bus was proceeding from Trichy to Ramanathapuram, due to sudden floods, the bus capsized, which resulted in death of the passengers. Since the accident had taken place due to the Act of God, the Transport Corporation was not liable to pay compensation.

3.The Tribunal based on the evidence of P.Ws.1 and 2 and P6 Motor Vehicle Inspector's report and Ex.P7 site map in my view rightly, held that the accident had taken place due to the negligence of the driver of the bus.



4.M.C.O.P.No.834 of 2006:

The claimants have given evidence stating that the deceased is their mother and she was aged 48 years at the time of accident and she was a fisherman, earning Rs.4,500/- per month. Ex.P.9 shows that she was a member in the Fisherman Cooperative Society. The Tribunal accepting the evidence of the claimants fixed the income of the deceased at Rs.4,500/- per month and after deducting 1/3rd towards her personal expenses, held that she was contributing Rs.3,000/- per month to her family. By applying multiplier of 13, the Tribunal awarded compensation of Rs.4,68,000/- towards loss of dependency; Rs.20,000/- towards love and affection and Rs.5,000/- towards funeral. The Tribunal has totally awarded Rs.4,93,000/- with 7.5% interest per annum.

5.M.C.O.P.No.837 of 2016:

Ex.P.11 postmortem certificate would show that the deceased was 20 year old at the time of accident. The claimants have not proved the income of the deceased. The Tribunal assessed the income of the deceased as Rs.3,500/- and deducted 50% towards her personal expenses and taken Rs.1,750/- per month as contribution to the family. By applying multiplier of 13, the Tribunal awarded compensation at Rs.2,95,750/- towards loss of dependency; Rs.10,000/- towards love and affection and Rs.5,000/- towards funeral expenses. In total, the Tribunal awarded Rs.3,10,750/- as compensation with 7.5% interest per annum.

6.M.C.O.P.No.1529 of 2006:

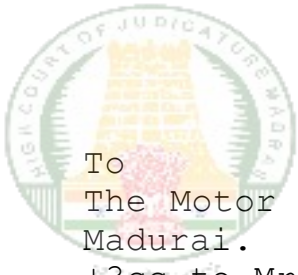
According to the claimants, the deceased was 23 year old at the time of accident and she was an agricultural cooli, thereby earning Rs.4,000/- per month. The Tribunal fixed the income as Rs.4,500/- per month and after deducting one third towards her personal expenses, the Tribunal held that the deceased was contributing Rs.3,000/- per month to the family. The Tribunal adopting multiplier of 13, has awarded at Rs.4,68,000/- towards loss of dependency. Rs.20,000/- towards loss of love and affection and Rs.5,000/- towards funeral expenses. In total the Tribunal has awarded Rs.4,93,000/- with 7.5% interest per annum. I am of the view that the award passed by the Tribunal is fair and reasonable and I do not find any merit in these appeals.

7.In the result, the award of the Tribunal are confirmed and the Civil Miscellaneous Appeals are dismissed. The appellant / Transport Corporation is directed to deposit the entire award amount with accrued interest and costs, within a period of 8 weeks from the date of receipt of a copy of this judgment, less the amount already deposited. On such deposit being made, the claimants are permitted to withdraw the award amount with interest and costs. No costs. Consequently, connected C.M.Ps. are closed.

Sd/-

Assistant Registrar

/True Copy/



To
The Motor Accidents Claims Tribunal, VI Additional District Court,
Madurai.

+3cc to Mr.D.SIVARAMAN Advocate in Sr. No.35985 to 35987

nbj

sm/msa/js/AAM/PM/PN/14.02.2017/3p-5c

C.M.A. (MD) Nos.547 to 549 of 2016

1.07.2016