



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.07.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) .No.559 of 2016

and

C.M.P. (MD) No.6613 of 2016

Tamil Nadu State Transport Corporation Limited,
Vannarapettai,
Tirunelveli-3

.. Appellant/Respondent

Vs.

Pandaram (died)

1.P.Mallika
2.P.Paramasivan
3.K.Muthulakshmi
4.P.Karthick

.. Respondents/Petitioners 2 to 5

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, against the award and decree made in M.C.O.P.No.953 of 2012, dated 04.10.2013 on the file of the Motor Accident Claims Tribunal/II Additional District Court, Tirunelveli.

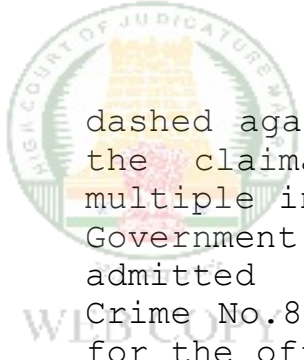
For Appellant : Mr.P.Prabhakaran
For Respondents : Mr.T.Selvakumaran

JUDGMENT

Challenging the award passed by the Motor Accident Claims Tribunal/II Additional District Court, Tirunelveli, in M.C.O.P.No.953 of 2012, the appellant/Transport Corporation, has preferred this appeal.

2.M.C.O.P.No.953 of 2012 was filed by one Pandaram claiming compensation of Rs.25,00,000/- for the injuries sustained in the accident occurred on 03.05.2012. After his demise, his legal heirs/the respondents 1 to 4 has pursued the claim petition.

3. According to the claimants, on the date of accident, the original claimant, namely, Pandaram was travelling in an Auto bearing Registration No.TN 76 V 0735 from Kakkanallur towards Ambasamudram along with other passengers. At that time, a bus bearing Registration No.TN 57 N 1237 belonging to the appellant/Transport Corporation came in a break-neck speed and



dashed against the rear side of the Auto. As a result of which, the claimants sustained multiple fractures on his head and multiple injuries all over the body. Immediately, he was taken to Government Hospital, Ambasamudram and after first-aid, he was admitted at Tirunelveli Medical College Hospital. The case in Crime No.88 of 2012 was registered against the Driver of the bus for the offences under Sections 279, 337 and 304 A of I.P.C.

4. In the counter, it is contended by the appellant/Transport Corporation that the road was in a bad condition and the Driver of the Auto turn it on the right side of the road in a rash manner without any signal despite the driver of the bus suddenly applied brake, it dashed against the auto. Since the Driver of the Auto was responsible for the accident, the Appellant is not liable to pay any compensation.

5. The Tribunal by common judgment, dated 04.10.2013 held that the Driver of the bus caused the accident and awarded compensation of Rs.7,90,000/-. Against that award, the present Civil Miscellaneous Appeal is filed.

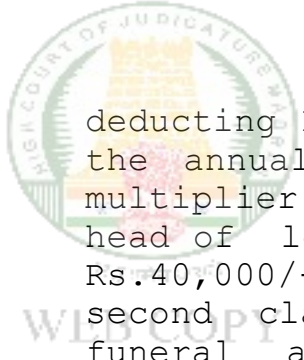
6. Mr.P.Prabhakaran, learned counsel for the appellant would submit that the Tribunal erred in holding that the driver of the bus was solely responsible for the accident; the conclusion reached by the Tribunal is based on surmises and conjectures without considering the materials on record and that the Tribunal had wrongly fixed the entire responsibility of the accident on the Driver of the appellant/Corporation and therefore, the award is liable to be set aside.

7. Mr.T.Selvakumaran, learned counsel for the respondents would submit that the Tribunal after analysing the oral and documentary evidences, has come to the correct conclusion and the award is also reasonable, which does not require interference by this Court.

8. Before the Tribunal, the claimants examined P.W.3, who is an eye-witness to the occurrence. She deposed the manner of accident as set out in the claim petition. The claimants marked Ex.P.1-copy of the First Information Report.

9. The Tribunal based on the evidence of P.W.3 and Ex.P1, in my opinion, rightly came to the conclusion that the Driver of the bus was responsible for the accident.

10. The Claimants in the claim petition has stated that the deceased was 58 years old at the time of accident and he was earning Rs.7,000/- per month by working as a coolie. P.W.1 also deposed that the deceased was 58 years old. Since there was no contra evidence, the Tribunal fixed the age of the deceased as 58 years and assessed the income at Rs.4,500/- per month. After



deducting 1/4th of the income for his personal expenses, estimated the annual income of the deceased as Rs.40,500/-. By applying multiplier of '9', a sum of Rs.3,64,500/- was awarded under the head of loss of dependency. In addition, the Tribunal had awarded Rs.40,000/- towards loss of love and affection; Rs.25,000/- to the second claimant for loss of consortium; Rs.25,000/- towards funeral and travel expenses; Rs.3,50,000/- towards medical expenses. However, the Tribunal awarded a lump sum amount of Rs.7,90,000/-.

11. In my considered opinion, the award of the Tribunal is fair and reasonable and the same is confirmed and the interest awarded by the Tribunal is maintained.

12. In the result, this Civil Miscellaneous Appeal is dismissed. No Costs. Consequently, connected Miscellaneous Petition is also closed.

13. The learned counsel for the appellant would submit that the appellant had already deposited the entire award amount with accrued interest and costs and the claimants have already withdrawn 50% of the award amount.

14. In view of dismissal of this appeal, the claimants are permitted to withdraw the balance amount as apportioned by the Tribunal without filing any formal application before the Tribunal.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

The II Additional District Judge/

Motor Accident Claims Tribunal, Tirunelveli.

+1 CC to Mr.P.PRABHAKARAN, Advocate, SR No.35707

+1 CC to Mr.T.SELVAKUMARAN, Advocate, SR No.35833

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pm

SH/SK-SKN:12.12.2016:3P/4C