



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.561 of 2016

and

C.M.P. (MD) No.6615 of 2016

Tamil Nadu State Transport Corporation Ltd.,
Tirunelveli Division,
through its General Manager,
having its office at Vannarapettai,
Tirunelveli.

... Appellant/Respondent

Vs.

1. Seethalakshmi
2. Minor Subathra Devi
3. Minor Ram Priya
4. Minor Vignesh Raja
5. Minor Rahul Chandru

(The minor respondents 2 to 5 are
represented through their mother
and next friend the 1st respondent) ... Respondents/Petitioners

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow this appeal and to set aside the Judgment and decree dated 01.08.2011 passed in M.C.O.P.No.130 of 2011 on the file of Motor Accidents Claims Tribunal/4th Additional District Court/Fast Track Court No.2, Tirunelveli.

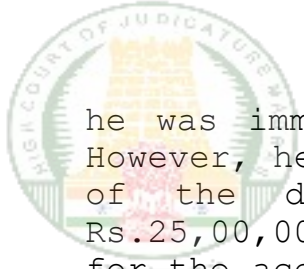
For Appellant : Mr.P.Prabhakaran

JUDGMENT

This appeal is directed against the award passed by the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.2, Tirunelveli, in M.C.O.P.No.130 of 2011, dated 01.08.2011.

2. Facts in nutshell:

On 24.03.2010, the deceased Pandiyan was proceeding in his TVS XL Super motorcycle bearing Registration No.TN 72-AB-6874 from Palayamkottai to Vallanadu on west to east direction, when he was nearing the Check Post at K.T.C. Nagar, a bus bearing Registration No.TN 72-N-1344 came from the opposite direction, dashed against the moped. In the impact, the deceased sustained grievous injuries and



he was immediately taken to Tirunelveli Medical College Hospital. However, he succumbed to the injuries on 31.03.2010. The legal heirs of the deceased filed a petition, claiming compensation of Rs.25,00,000/-, alleging that the driver of the bus was responsible for the accident.

3. The claim was resisted by the appellant, by filing counter disputing the manner of the accident and their liability to pay compensation.

4. Before the Tribunal, the claimants have examined three witnesses as P.Ws.1 to 3 and marked 5 documents as Ex.Ps.1 to 5 and on the side of the appellant, two witnesses were examined as R.W.1 and R.W.2 and one document was produced as Ex.R.1.

5. The Tribunal, based on the oral and documentary evidence held that the driver of the bus had caused the accident and awarded a compensation of Rs.15,20,000/-. Aggrieved over the award, the present appeal is preferred.

6. Heard the learned counsel for the appellant and perused the entire materials available on record.

7. It is seen from the records that the P.W.2 is an eyewitness to the occurrence and he has given evidence, as set out in the claim petition. The appellant has mainly contended that the accident had taken place on a four-lane road and the motorcycle after hitting the Barry guard, dashed against the bus. A criminal case was registered against R.W.1, namely, the driver of the bus and he did not file any company against the driver of the motorcycle.

8. Ex.P.1 First Information Report and Ex.P.2 Charge Sheet would show that a criminal case was registered against the driver of the bus. The Tribunal, while accepting the evidence of the eyewitness(P.W.2) and also based on Ex.P.1 and Ex.P.2 held that the driver of the bus was responsible for the accident.

9. P.W.1 Seethalakshmi has deposed that the deceased was 48 years old on the date of the accident. Ex.P.3 corroborates the evidence of P.W.1. P.W.1 has further deposed that the deceased was working as a Bench Clerk Grade-II in Subordinate Court, at Ambasamudhram and he was drawing salary of Rs.20,000/- per month. Ex.Ps.4 and 5 are the salary slips. Based on the evidence, the Tribunal has assessed the income of the deceased at Rs.14,000/-. The Tribunal has deducted 1/3rd towards personal income of the deceased and awarded Rs.14,60,000/- towards loss of dependency, Rs.10,000/- towards funeral expenses, Rs.50,000/- towards loss of consortium to the first claimant and love and affection to the other claimants. The Tribunal has totally awarded Rs.15,20,000/- along with interest at 8% p.a.

10. The award passed by the Tribunal is fair and reasonable,

which does not warrant interference by this Court.

11. **In fine**, the award passed by the Tribunal dated 01.08.2011 is confirmed and the appeal is dismissed. In view of the dismissal of the appeal, the appellant is directed to deposit the entire award amount along with accrued interest and costs to the credit of M.C.O.P.No.130 of 2011, Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.2, Tirunelveli, within a period of eight weeks from the date of receipt of the copy of this Judgment.

12. On such deposit being made, the first claimant is permitted to withdraw her entire share in the award amount along with accrued interest and costs, without filing any formal petition before the Tribunal. Claimant Nos.2 to 5 are minors and their shares in the award amount shall be deposited in a fixed deposit, in any one of the Nationalised Bank, till they attain the majority. The first claimant who is guardian of the minor claimant Nos.2 to 5 is permitted to withdraw the accrued interest once in three months, directly from the Bank and utilise the same for their welfare. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS II)

/True Copy/

Sub Assistant Registrar

To

The 4th Additional District Judge,
Motor Accidents Claims Tribunal,
Fast Track Court No.2,
Tirunelveli.

+1 cc to Mr.P.PRABHAKARAN,Advocate, Sr.No: 35708

C.M.A. (MD) .No.561 of 2016
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