



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2016

CORAM:

WEB COPY

THE HONOURABLE Mr. JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) No.570 of 2016
and
C.M.P. (MD) No.6650 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Dindigul.

... Appellant/1st respondent

Vs.

1.P.Masilamani
2.R.Mariyakalaiselvi
3.R.Vinnarasi
4.M.Jacquelinrani
5.Arokkiyarajan
6.S.Jency
7.P.Xavier
8.J.Saravanan

... Respondents/Petitioners

(8th respondent is a driver - exparte - notice given up)

... Respondent / 2nd respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree passed in M.C.O.P.No.1632 of 2005 dated 07.05.2010 on the file of the Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court No.3, Madurai.

For Appellant : Mr.M.Prakash

JUDGMENT

Challenging the award dated 07.05.2010 passed by the Motor Accident Claims Tribunal cum Additional District Judge, Fast Track Court No.3, Madurai, in M.C.O.P.No.1632 of 2005, the present Appeal is filed.

2.The facts in nutshell are as follows:

On 11.06.2003 at about 10.30 a.m., the deceased, Paulraj, was proceeding in a bicycle in Usilampatti-Theni main road and at that time, a bus bearing registration No.TN-57 N-1141 came from opposite direction in a rash and negligent manner hit against the bicycle. In the impact, the deceased sustained grievous injury and died. The



legal heirs of the deceased, Paulraj, filed a claim petition, claiming compensation of Rs.3 lakhs.

3.The claim was opposed by the appellant, stating that the deceased had suddenly emerged in the main road from sub road, without following rules and hence, he was responsible for the accident. It was further contended that the claim was excessive.

4.Before the Tribunal, the first claimant examined herself as P.W.1 and marked documents Ex.P.1 to 3 to establish their case and on the side of the appellant, one Ganapathi Sundaram was examined as R.W.1, however, no document was filed.

5.P.W.1 has given evidence, stating that the driver of the bus caused the accident. Ex.P.1, FIR corroborated the evidence of P.W.1. The driver of the bus was not examined. So the Tribunal, disbelieved the evidence of R.W.1 and held that the driver was responsible for the accident.

6.P.W.1 has further deposed that the deceased was aged about 52 years and he was a fish merchant, earning Rs.3,000/- per month. Ex.P.3 would show that claimants are the legal heirs of the deceased. Ex.P.2, postmortem certificate would show that the deceased was 54 years at the time of accident. The claimants have not filed any documentary evidence to prove the income of the deceased. So the Tribunal fixed notional income at Rs.3000/- per month and after deducting one third towards his personal expenses, calculated the loss of dependency by applying multiplier 11 at Rs.2,64,000/- ($2,000 \times 12 \times 11 = 2,64,000$) together with interest at 9% per annum based on the evidence and also following the decision of the Hon'ble Supreme Court reported in **2009 ACJ 298 (Sarla Verma and others Vs. Delhi Transport Corporation and another)**. .. In respect of the other heads, the Tribunal has rightly awarded compensation and the same are confirmed.

7.In the result, the Civil Miscellaneous Appeal is dismissed. The appellant / Transport Corporation is directed to deposit the entire award amount within a period of 8 weeks from the date of receipt of a copy of this judgment, less 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.P.is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar



To

The Additional District Judge,
Motor Accident Claims Tribunal,
Fast Track Court No.3,
Madurai.

+ 1 CC TO Mr.M.PRAKASH, ADVOCATE IN SR No. 36250

NBJ

TE/GT/SAR-3 : 21/12/2017 : 3P/3C

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