



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2016

CORAM:

THE HONOURABLE Mr. JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) No. 572 of 2016

and

C.M.P. (MD) No. 6670 of 2016

The General Manager,
Tamil Nadu State Transport Corporation,
Kumbakonam Division - 3,
Karaikudi.

... Appellant / Respondent
Vs.

1. Mariyammal
2. Minor Renuka
3. Rajangam
(2nd respondent minor rep. through her mother and guardian
Mrs. Mariyammal) ... Respondents / Petitioners

Prayer: Civil Miscellaneous Appeal is under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.62 of 2006, dated 18.03.2011 on the file of the Motor Accident Claims Tribunal cum Subordinate Court, Paramakudi.

For Appellant : Mr.M.Prakash

ORDER

Aggrieved over the award dated 18.03.2011 passed by the Motor Accident Claims Tribunal cum Subordinate Court, Paramakudi, in M.C.O.P.No.62 of 2006, the appellant / Transport Corporation has preferred this Appeal.

2. According to the claimants, on 16.08.2004 at about 12.45 p.m. the deceased, Pandi, was travelling as pillion rider in a motorcycle bearing registration No.TN-65 8603 and at that time, a bus bearing registration No.TN 67 N-0041 came in high speed, dashed against the motorcycle, resulting in death of the the deceased. The legal heirs of the deceased, preferred a petition, claiming compensation of Rs.6 lakhs, alleging that the driver of the bus was responsible for the accident.

3. The claim petition was resisted by the appellant by filing a counter statement disputing the manner of accident and their liability.

4. P.W.S. 1 and 2 have given evidence stating that the driver of the bus came in a rash and negligent manner and dashed against the



two wheeler. Ex.P.1 is the FIR. The Tribunal based on evidence of P.Ws.1 and 2 and Ex.P.1 rightly held that the driver caused the accident.

5.Ex.P.2, postmortem certificate would show that the deceased was 32 years old at the time of the accident. P.W.1 has given evidence stating that her husband was 32 years old and he was doing fish business and earning Rs.4,500/- per month. The Tribunal assessed the income of the deceased as Rs.4,500/- and after deducting one third towards his personal and living expenses held that he was contributing Rs.3,000/- to his family. The Tribunal applying multiplier of 17, awarded Rs.6,12,000/- towards loss of dependency; Rs.30,000/- towards loss of love and affection; Rs.10,000/- to the 2nd claimant towards loss of guidance; Rs.10,000/- towards loss of consortium to the 1st claimant and Rs.10,000/- towards transportation expense and funeral expenses, totally Rs.6,72,000/- along with interest at 7.5% per annum.

6.In the considered opinion of this Court, the award is fair and reasonable and the same is 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, if not already deposited. On such deposit being made, the claimants are permitted to withdraw the award amount with interest and costs as apportioned by the Tribunal.

No costs. Consequently, connected C.M.P.is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

nbj

To

The Subordinate Judge,

The Motor Accident Claims Tribunal, Paramakudi.

+1CC to Mr.M.Prakash, Advocate Sr.No.36249

GJM/SS2/26.9.16-2p-3c

C.M.A. (MD) No.572 of 2016

12.07.2016