



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) .No.578 of 2016

The General Manager,
Tamil Nadu State Transport Corporation,
Madurai IV Division,
Dindigul Bye Pass Road,
Collectorate Post,
Dindigul District.

... Appellant/
1st Respondent

Vs.

1. Mariammal
2. Minor Kavitha
3. Minor Priya
4. Solaiannan
5. Pappal

... Respondents 1 to 3/Petitioners

(Minor respondent Nos.2 and 3 are being
represented by their mother and
next friend the 1st respondent)

...Respondent Nos.4&5/
Respondent Nos.2&3

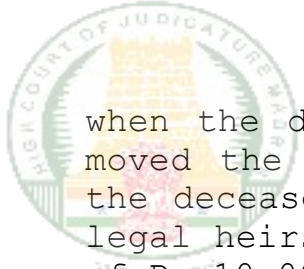
PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the Judgment and Decree passed in M.C.O.P.No.188 of 2010 dated 28.02.2014, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Palani.

For Appellant : Mr.P.Prabhakaran

JUDGMENT

Aggrieved over the award passed by the Motor Accidents Claims Tribunal, Subordinate Court, Palani in M.C.O.P.No.188 of 2010, dated 28.02.2014, the Transport Corporation has preferred this Civil Miscellaneous Appeal.

2. According to the claimants, on 13.06.2010 at 10.00 p.m., the claimant along with her husband, namely, the deceased Kalidass were waiting in a bus stop at Neikarapatti and at that time, a bus bearing Registration No.TN 57-N-1000 was stopped and



when the deceased tried to get into the bus, the driver suddenly moved the bus in a rash and negligent manner. In that process, the deceased fell down, he was run over and died on the spot. The legal heirs of the deceased filed a petition claiming compensation of Rs.10,00,000/-.

WEB COPY

3. The claim petition was opposed by the appellant contending that the deceased was responsible for the accident and they have also disputed the age, income and occupation of the deceased.

4. The first claimant who is an eyewitness to the occurrence has categorically stated that the accident had taken place due to the rash and negligent driving of the driver of the bus. A criminal case was also registered against the driver of the bus. Ex.P.1 is the First Information Report. The Tribunal accepting the evidence of P.W.1 and Ex.P.1 and disbelieving the evidence of R.W.1 held that the driver of the bus was responsible for the accident.

5. The evidence of P.W.1 and Ex.P.2 Postmortem Certificate would show that the deceased was 30 years old at the time of accident. P.W.1 has given evidence stating that her husband was working as a coolie and earning Rs.10,000/- per month. The claimants have not proved the income of the deceased. Based on the evidence of P.W.1, the Tribunal assessed the income of the deceased at Rs.4,500/- per month and after deducting 1/3rd towards his personal expenses held that the deceased was contributing Rs.3,000/- per month to his family.

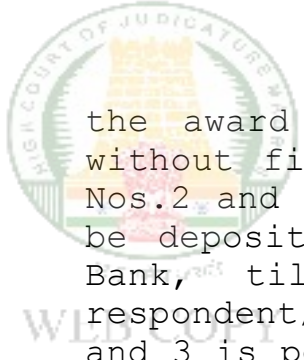
6. The Tribunal by applying the multiplier of '18' awarded Rs.6,48,000/-(3,000x12x18) towards loss of dependency; Rs.25,000/- towards loss of love and affection; Rs.5,000/- towards funeral expenses; Rs.50,000/- towards loss of consortium to the first claimant and Rs.5,000/- towards transport charges. The Tribunal has totally awarded Rs.7,33,000/- together with interest at 7.5% p.a.

7. In my considered view, the quantum awarded by the Tribunal is fair and reasonable which does not warrant interference by this Court.

8. **In the result**, the award passed by the Tribunal dated 28.02.2014 is confirmed and the Civil Miscellaneous Appeal is dismissed. In view of the dismissal of this appeal, the appellant/Transport Corporation is directed to deposit the entire award amount along with accrued interest and costs, if not already deposited, within a period of eight weeks, from the date of receipt of the copy of this Judgment.

<https://hcservices.ecourts.gov.in/hcservices/>

9. On such deposit being made, the first claimant and respondent Nos.4 and 5 are permitted to withdraw their shares in



the award amount, along with proportionate interest and costs, without filing any formal petition before the Tribunal. Claimant Nos.2 and 3 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 age of majority. The first respondent/Mother, who is the guardian of the minor claimant Nos.2 and 3 is permitted to withdraw the accrued interest, once in three months directly from the bank and utilize the same for their welfare. No costs.

Sd/-

Assistant Registrar(CS I)

/True copy/

Sub Assistant Registrar

To
The Subordinate Judge,
Motor Accidents Claims Tribunal,
Palani.

+1cc to Mr.P.Prabhakaran, Advocate SR.No.36712

pmu

sm:SK-SKN:SAR I:31/08/2016:3P/3C

C.M.A. (MD) .No.578 of 2016
14.07.2016