



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2016

CORAM:

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A.(MD)No.590 of 2016

and

C.M.P.(MD).No.6752 of 2016

The Managing Director,
TNSTC Ltd., (Division-3, Karaikudi),
Kumbakonam.

.. Appellant/Respondent No.1

Vs.

1.Vasantha
2.Ramesh
3.Somavalli
4.Suresh

...Respondents/Petitioners 1 to 3
...Respondent/2nd Respondent

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, against the fair and decretal order, dated 14.07.2010, made in M.C.O.P.No.262 of 2007 on the file of the Motor Accidents Claims Tribunal/ District Court, Sivagangai.

For Appellant : Mr.M.Prakash

JUDGMENT

The State Transport Corporation has filed the present appeal questioning the award passed by the Motor Accidents Claims Tribunal, District Court, Sivagangai in M.C.O.P.No.262 of 2007, dated 14.07.2010.

2.Heard Mr.M.Prakash, learned counsel appearing for the appellant and perused the materials available on record.

3. Case in brief are as follows:

On 04.04.2007, at about 08.00 a.m., the deceased Kannappan was riding his motorcycle from Sevalpunjai village to Kalaiyarkovil and at the time, the bus bearing registration No.TN-63-N-0855 came in a rash and negligent manner dashed against the motorcycle and in the impact the rider of the two-wheeler died on the spot. The legal heirs of the deceased filed the claim petition claiming compensation of Rs.10,00,000/- on the ground that the driver of the bus was responsible for the accident.

<https://hcservices.ecourts.gov.in/HCServices/> The claim petition was resisted by the appellant disputing the income of the deceased and the manner of the accident.



5. It is seen from the records that PW3 Samikannu was examined as eyewitness to the accident. Ex.P1 is the FIR and Ex.P3 is the charge sheet. The driver of the bus, Abdul Rahman was examined as RW1.

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6. The Tribunal, upon consideration of the oral and documentary evidence, held that both the drivers are responsible for the accident and fixed contributory negligence, on the part of the driver of the bus and the deceased in ratio of 60:40.

7. PW1 has given evidence stating that her husband was working as time keeper in Kaleeswari Textile Mills and earning Rs.6072.80/- per month. PW2, Arunachalam is an employee of the textile mill also corroborated the evidence of PW1. Ex.P4, salary receipt. Based on the evidence of PW1, PW2 and Ex.P4, the Tribunal held that the deceased was earning Rs.6,073/- per month and after deducting 1/3 share as personal expenses of the deceased, awarded Rs.6,31,592/- to his family by applying multiplier of 13, towards loss of dependency, in addition to that Rs.5000/- towards loss of consortium, Rs.20000/- towards loss of love and affection, Rs.10000/- towards funeral expenses, Rs.2000/- towards transport charges. The Tribunal totally awarded Rs.6,68,592/- after deducting 40% for contributory negligence awarded Rs.4,01,155/- together with interest at the rate of 7.5% per annum.

8. This Court is of the view that the award is fair and reasonable. Accordingly, the award is confirmed and this appeal is dismissed. Consequently connected miscellaneous petition is closed. No Costs.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub-Assistant Registrar

To

1.District Judge,(Motor Accident Claims Tribunal)Sivagangai.

2.The Managing Director,

TNSTC Ltd., (Division-3, Karaikudi),Kumbakonam.

Copy to: The Section Officer,V.R.Section,

Madurai Bench of Madras High Court, Madurai

+One cc to Mr.A.Shajahan, Advocate, SR.No.37688

+One cc to Mr.M.Prakash, Advocate, SR.No.36945

PJL

RL/6C/2P/PV/6/9/2016

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