



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) .No.679 of 2016

and

C.M.P. (MD) No.7114 of 2016

THE MANAGING DIRECTOR
TAMIL NADU STATE TRANSPORT
CORPORATION LIMITED, BYE-PASS ROAD
MADURAI.

.. APPELLANT/RESPONDENT

Vs

- 1 M.NAGALAKSHMI
- 2 M.VIVEK
- 3 MINOR M.HARISH
- 4 MINOR M.KAVINAYA

(Minors respondent through rep.
Mother-1st respondent herein)

.. RESPONDENTS/PETITIONERS

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.1354 of 2007 dated 31st Day of March 2010 on the file of Motor Accident Claims Tribunal/1st Additional District Judge, Madurai.

For Appellant

: Mr.M.Prakash

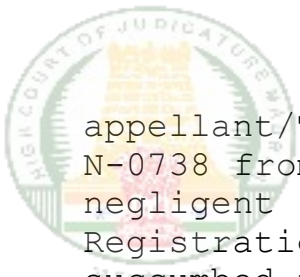
JUDGMENT

This appeal is directed against the award passed by the Motor Accidents Claims Tribunal, I Additional District Court, Madurai, in M.C.O.P.No.1354 of 2007, dated 21.03.2010.

2. Heard the learned counsel appearing for the appellant and perused the records.

3. M.C.O.P.No.1354 of 2007 was filed by respondent Nos.1 to 4 claiming compensation of Rs.10,00,000/- for the death of the first claimant's husband and father of claimant Nos.2 to 4, namely, Muthumanickam, in a motor vehicle accident on 28.05.2007.

4. According to the claimants, on 28.05.2007, the deceased Muthumanickam was travelling as a passenger in the



appellant/Transport Corporation bus bearing Registration No.TN 58-N-0738 from Madurai to Ramnad and the bus was driven in a rash and negligent manner, hit against a stationary lorry bearing Registration No.TN 27-H-4656. In the impact, the deceased succumbed to the injuries.

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5. The claim was opposed by the appellant stating that the lorry was negligently parked on the Tar road in National Highways and the owner and the insurer of the lorry are necessary parties and the claim has to be rejected, as they have not been made as parties in the claim petition.

6. The claimants in support of their case examined P.W.2 Mahesh, one of the passengers travelled along with the deceased. P.W.1 has produced Ex.P.1 First Information Report to show that a criminal case in Crime No.274 of 2007 was registered against the driver of the bus. Ex.P.2 Charge Sheet would also reveal that after investigation, the police laid the final report against the driver of the bus. Ex.P.3 is the report of the motor vehicle inspector. The Tribunal based on the evidence of P.W.2, Ex.Ps.1 to 3 held that the driver of the bus caused the accident, while rejecting the evidence given by R.W.1 conductor of the bus.

7. P.W.1 deposed that her husband was 40 years old and he was earning Rs.7,500/- per month, by running a grocery shop at Pallipalayam. Ex.Ps.8 receipt issued by Executive Officer, Panchayat Union, Pallipalayam and Ex.P.9 certificate issued by the Chairman, Municipality, Pallipalayam, corroborate the evidence of P.W.1. The Tribunal accepting the evidence, assessed the income of the deceased at Rs.5,000/- per month and deducted 1/3rd towards his personal expenses. By applying multiplier of '16', awarded Rs.6,40,000/- towards loss of dependency.

8. The Tribunal, taking into consideration of the facts that the first claimant was 35 years old and claimant Nos.2 to 4 were aged 10, 9 and 5 years, awarded Rs.50,000/- towards loss of consortium and loss of love and affection and awarded Rs.2,000/- towards funeral expenses. Totally, the Tribunal awarded Rs.6,92,000/- together with interest at 7.5% p.a.

9. In my considered view, the award passed by the Tribunal is fair and reasonable, which does not warrant interference by this Court.

10. **In fine**, the award passed by the Tribunal dated 31.03.2010 is confirmed and the appeal is dismissed. In view of the dismissal of the appeal, the appellant/Transport Corporation is directed to deposit the entire award amount along with accrued interest and credit of M.C.O.P.No.1354 of 2007, Motor Accidents Claims Tribunal, I Additional District Court, Madurai, within a period of eight weeks from the date of receipt of the copy of this



Judgment.

11. On such deposit being made, claimant Nos.1 and 2 are permitted to withdraw the entire award amount along with accrued interest and costs, without filing any formal petition before the Tribunal. The shares of minor claimant Nos.3 and 4 shall be deposited in a fixed deposit, in Indian Bank, Madurai Bench of Madras High Court Branch, Madurai to the credit of C.M.A.(MD). No.679 of 2016, initially for a period of one year and renewable thereafter, till they attain the majority. The first respondent/Mother, who is the guardian of minor claimant Nos.3 and 4 is permitted to withdraw the accrued interest, once in three months directly from the bank and utilize the same for their welfare. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

1. The 1st Additional District Judge,
The Motor Accidents Claims Tribunal, Madurai.
2. The Branch Manager,
Indian Bank,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.M.PRAKASH, Advocate Sr.No.39849

C.M.A.(MD).No.679 of 2016 and
C.M.P.(MD)No.7114 of 2016
27.07.2016

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SH/SKS-RR:26.08.2016:3P/5C