



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.699 of 2016

and

CMP(MD)No.7216 of 2016

Tamil Nadu State Transport Corporation,
through its Managing Director,
Office at Bye-Pass Road,
Madurai-10.

: Appellant/ respondent

Vs

1.R.Saraswathi

2.J.Jebastin Ebenezer

: Respondents/Petitioners

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed in MCOP No.159 of 2013, dated 12.03.2014 on the file of the Motor Accidents Claims Tribunal (Principal District Court, Tuticorin.

For Appellant

: Mr.P.Prabhakaran

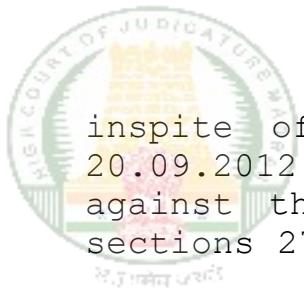
For Respondents

: Mr.K.Suresh Kumar

JUDGMENT

Aggrieved over the award passed by the Motor Accidents Claims Tribunal (Principal District Judge), Tuticorin, in MCOP No.159 of 2013, the Appellant Transport Corporation has preferred this appeal.

2.The wife and the father of the claimants namely Jayaraj Manickam died in a motor vehicle accident on 19.09.2012. The legal heirs of the deceased filed a petition claiming compensation of Rs.30,00,000/- on the ground that on 19.09.2012 the deceased Jeyaraj Manickam was returning from Arumuganeri to Tuticorin, after attending work in the bus bearing registration No.TN-74-N-1470 belonging to the appellant Transport Corporation. The bus was stopped at Nellai Annatchi Maligai bus stop at Tuticorin. While the deceased was alighting from the bus, the driver without proper signal moved the bus in a rash and negligent manner. In that process, the deceased fell down and sustained grievous injuries and immediately, he was taken to AVM Hospital, Tuticorin and



inspite of better treatment, he succumbed to the injuries on 20.09.2012. The Tuticorin South Police registered a criminal case against the driver of the bus, in crime No.773 of 2012 under sections 279, 337 and 304(A) IPC.

3.The appellant filed a detailed counter refuting the allegations made in the claim petition contending that the deceased was suffering from renal failure and he was undergoing regular dialysis and on 19.09.2012, he got down from the bus after walking for a distance of 20 feet he was unable to further walk due to illness. Therefore, he sate on the road. The police have conducted enquiry and closed the case as 'Mistake of Fact'. Therefore, they are not liable to pay the compensation.

4.The Tribunal, on appreciation of oral and documentary evidence has come to the conclusion that the accident was caused due to the negligence of the bus driver and awarded compensation of Rs.5,45,500/- together with interest @ 7.5% p.a. Challenging the said order, the Transport Corporation is before this court.

5.Heard the rival submissions and perused the materials available on record.

6.PW2 Salamon is an eye witness to the accident. Before the Tribunal, he deposed the manner of the accident as set out in the claim petition. The appellant has examined the driver of the bus as RW1. RW1 deposed that the deceased while attempting to get down from the running bus fell down and sustained the injuries. Ex.P1 is the First Information Report and Ex.P2 is the report of Motor Vehicle Inspector. The Tribunal, accepting the evidence of PW2 and based on Exs.P1 and P2 has rightly held that the driver of the bus was responsible for the accident.

7.PW1 the first claimant would state that her deceased husband was working as an Agent and earning Rs.15,000/- per month. In addition, he was earning Rs.5,000/- from his Saree business. Ex.P9 is the identification card. Ex.P11 is the statement of the accounts in respect of the deceased. Ex.P12 is the Pan card issued by the income Department. Ex.P13 Diary was marked to show that he was doing Saree business. Based on the evidence, the Tribunal assessed the monthly income of the deceased as Rs.4,000/- and held that the deceased was 45 year. Following the principles laid down in the case of Sarla Verma [2009(2)TAN MAC 1], the Tribunal deducted 1/4th from the salary towards his personal expenses. By applying the multiplier of '14', the Tribunal has awarded Rs.5,04,000/- towards loss of income; Rs.10,000/- to the first claimant towards loss of consortium; Rs.20,000/- to the claimants towards loss of love and affection; Rs.9,500/- for medical costs and Rs.2,000/- towards funeral expenses In total, the Tribunal has awarded Rs.5,45,500/- together with interest @ 7.5% p.a. In my considered view, the award is fair and reasonable.



8. In fine, the appeal is dismissed and the award of the Tribunal is confirmed. The appellant Insurance Company is directed to deposit the entire amount together with the interest and costs within a period of eight weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit, the claimants are permitted to withdraw the entire amount without filing any formal application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

The Principal District Judge,
Thoothukudi.

+1CC TO MR.K.SURESH KUMAR, ADVOCATE SR.NO. 40812
+1CC TO MR.P.PRABHAKARAN, ADVOCATE SR.NO. 40766

ER
TE/KM : 16/11/2016 : 3P/4C

Judgment made in
CMA (MD) No.699 of 2016
and
CMP (MD) No.7216 of 2016
29.07.2016