



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2016

CORAM:

THE HONOURABLE Mr. JUSTICE K. KALYANASUNDARAM

C.M.A. (MD) No. 702 of 2016

and

C.M.P. (MD) No. 7221 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Madurai Division III), Vannarpettai,
Tirunelveli.

... Appellant / Respondent

Vs.

1. Esthar
2. Pushpa
3. Minor Johnson

... Respondents / Petitioners

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.488 of 2003 dated 29.06.2010 by the Motor Accident Claims Tribunal cum I Additional District Court, Tirunelveli.

For Appellant : Mr. M. Prakash

JUDGMENT

The Transport Corporation has preferred the appeal challenging the award passed by the Motor Accident Claims Tribunal cum I Additional District Court, Tirunelveli in M.C.O.P.No.488 of 2003 dated 29.06.2010.

2. According to the claimant, on 26.08.2001, the deceased viz., Martin, was standing near the Police quarters along with his friend Madasamy and at the time, a bus belonging to the appellant / Transport Corporation bearing registration No. TN 57 N 0501 came in a rash and negligent manner hit against the deceased. As a result of which, he sustained grievous injuries. He was taken to Government Rajaji Hospital, Madurai and he succumbed to injuries on 14.09.2001. The legal heirs of the deceased filed a petition claiming compensation of Rs.5 lakhs.

3. The appellant filed a counter disputing the age, occupation, monthly income of the deceased and the manner of the accident. Further contended that the criminal case was registered in Crime No.978 of 2001 against the said Madasamy, but, not against the driver of the bus based on the complaint given by the deceased himself. So they are not liable to pay compensation.

<https://hcservices.eCourts.gov.in/services> 4. Before the Tribunal, the claimants in order to establish their case, examined 4 witnesses and marked Ex.Ps.1 to 7. On the side of the appellant one witness was examined and two documents



were marked. The Tribunal on appreciation of both the oral and documentary evidence has come to the conclusion that the driver of the bus was responsible for the accident.

5. The P.W.1 has given evidence stating that the deceased was 43 years old and he was an Auto Driver and earning not less than Rs.5,000/- per month. The Tribunal has come to the conclusion that the deceased was contributing Rs.3,000/- P.M. to his family and by applying multiplier of 15, awarded Rs.5,40,000/- towards loss of dependency; Rs.15,000/- towards loss of love and affection; Rs.20,000/- towards loss of consortium; Rs.5,000/- for funeral expenses and Rs.15,000/- for mental stress and shock and assessed the compensation as Rs.5,95,000/-, however and restricted the amount to Rs.5 lakhs as claimed by the claimants with 7.5% interest per annum. I am of the view that the award passed by the Tribunal is fair and reasonable and I do not find any merit in this appeal.

6. In the result, the award of the Tribunal is confirmed and the Civil Miscellaneous Appeal is dismissed. The appellant / Transport Corporation is directed to deposit the entire award amount with accrued interest and costs, within a period of 8 weeks from the date of receipt of a copy of this judgment, less the amount 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

To

The 1st Additional District Judge,
The Motor Accident Claims Tribunal, Tirunelveli.

+1cc to M/s.M.Prakash, Advocate SR.No.40300

C.M.A. (MD) No.702 of 2016

28.07.2016

nbj

SD/DB/07.10.2016/2P/3C