



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.718 of 2016

and

CMP(MD)No.7258 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation
Kumbakonam Limited,
Pudukkottai Branch,
Pillaithanneerpandal,
Thirumayam Road,
Pudukkottai.

: Appellant/2nd respondent

Vs

1.Jasmine
2.Minor Mohammed Sabeek
3.Minor Mohammed Sameer
4.Mohammed Hanifa : R1 to R4/Petitioners 1 to 4
5.Mumtaj Begam : R5/5th Petitioner
[Minor 2 and 3 represented through
their Mother & Guardian Jasmine,
the 1st respondent]

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed in MCOP No.507 of 2012, dated 12.01.2015 on the file of the Motor Accidents Claims Tribunal/Additional District and Sessions Judge, Special Court, Pudukkottai.

For Appellant : Mr.D.Sivaraman
For R1 to R5 : Mr.K.G.Arunkumar

JUDGMENT

This appeal arises out of the award passed by the Motor Accidents Claims Tribunal (Additional District Judge-cum-Special Judge), Pudukkottai, in MCOP No.507 of 2012, dated 12.01.2015.

2.The case of the claimants is that on 07.09.2011, the husband of the first claimant and father of the claimants 2 and 3 and son of the claimants 4 and 5 was riding a motor cycle bearing registration No.TN-49-B-4365. At the time, the bus belonging to Tamil Nadu State Transport Corporation bearing registration No.TN-55-N-0627 came in the same direction, knocked down the deceased, resulting in instantaneous to his death.



3. According to the appellant, when the bus reached Karuppur at about 12.00 a.m on 07.09.2011, the driver slow down the bus after seeing the cow crossing the road. While so, the deceased suddenly attempted to cross the road in front of the bus and hit against the bus and fell down. Since, the deceased invited the accident, the appellant is not liable to pay any compensation.

4. In order to prove the case, the claimants examined three witnesses as PW1 to PW3 and marked Exs.P1 to P6. While the appellant examined the driver of the bus as RW1, however, no document was produced.

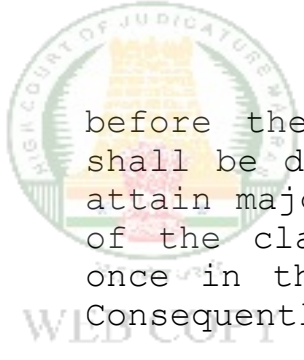
5. The Tribunal, upon consideration of the oral and documentary evidence, has rightly come to the conclusion that the driver of the bus caused the accident and awarded compensation of Rs.12,07,500/-. Aggrieved by the said order, this appeal has been preferred by the Transport Corporation.

6. Heard Mr.D.Sivaraman, learned counsel for the appellant and Mr.K.G.Arunkumar, learned counsel for the respondents and perused the materials available on record.

7. PW1 deposed that her husband was 26 year old on the date of the accident and he was working in a construction company, thereby earning Rs.25,000/- per month. Ex.P2 is the Salary certificate. PW3 is an employee of the construction company. Based on the evidence, the Tribunal fixed the age of the deceased at 26 year and assessed the income of the deceased as Rs.7,500/- per month. After deducting 1/3rd of the income towards his personal expenses, the Tribunal, by applying the multiplier of '17' has awarded Rs.11,47,500/- [Rs.5,625/- x 12 x 17] towards loss of dependency. In addition, the Tribunal has awarded Rs.25,000/- to the first claimant towards loss of consortium; Rs.20,000/- to the minor claimants 2 and 3 towards loss of love and affection; Rs.5,000/- to the claimants 4 and 5 for loss of love and affection; Rs.5,000/- for transportation and Rs.5,000/- towards funeral expenses. In total, the Tribunal has awarded **Rs.12,07,500/-** along with interest @ 7.5% p.a.

8. The appellant has admitted their liability to an extent of Rs.9,00,000/- and this appeal is preferred challenging the amount of Rs.3,07,500/-. This court is of the considered view that the award of the Tribunal is fair and reasonable and it is confirmed.

9. In the result, this appeal is dismissed. The appellant Transport Corporation Company is directed to deposit the entire amount together with interest, within a period of eight weeks from the date of the order. The appellant is directed to deposit the entire amount together with interest, within a period of eight weeks from the date of the order. On such deposit, the claimants 1, 4 and 5 are permitted to withdraw the entire amount without filing any formal petition



before the Tribunal. The share of the minor claimants 2 and 3 shall be deposited in any one of the Nationalised Bank, till they attain majority. The first claimant, being the mother and guardian of the claimants 2 and 3 are entitled to withdraw the interest once in three months for the welfare of the minors. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(co)

/True copy/

Sub Assistant Registrar

To,

The Additional District and Sessions Judge/
Special District Judge,
(Motor Accident Claims Tribunal)
Pudukkottai.

+1cc to Mr.D.Sivaraman, Advocate SR.No.40776

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Judgment made in
CMA (MD) No.718 of 2016
29.07.2016