



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.731 of 2016

and

CMP(MD)No.7309 of 2016

The Divisional Manager,
Tamil Nadu State Transport Corporation,
Bye-Pass Road, Madurai

: Appellant/Respondent

Vs.

1.M.Ganesan
2.M.Angu
3.M.Muthulakshmi
4.M.Moorthy
5.M.Amutha
6.M.Gurusamy
7.M.Murugan

: Respondents/ Petitioners

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree passed in MCOP No.1951 of 2005, dated 14th day of July 2009 on the file of the Motor Accident Claims Tribunal/Additional District Court-cum-Fast Tract Court No.1, Madurai.

For Appellant

: Mr.N.Prakash

J U D G M E N T

The Transport Corporation has preferred this appeal against the award passed by the Motor Accidents Claims Tribunal/Additional District Judge (Fast Track Court No.I), Madurai, in MCOP No.1951 of 2005, dated 14.07.2009.

2.The husband, sons and the daughters of the deceased Arumugam filed MCOP No.1951 of 2005 against the appellant Transport Corporation seeking compensation of Rs.3,00,000/-.

3.The case of the claimants is that on 18.07.2005, the deceased was travelling as a passenger in the bus belonging to the appellant transport corporation and when the bus was stopped at Rediyapatti bus stop, the deceased attempted to alight from the bus and before she could get down, the bus was moved in a rash and

negligent manner, resulting her death.

4.The claim was opposed by the appellant transport corporation by filing a counter disputing the age, income and occupation of the deceased. Further, it is stated that the deceased died only due to her negligence as she attempted to get down from the bus before it was stopped in the bus stop. So, they are not liable to pay any compensation.

5.Before the Tribunal, on the side of the claimants, two witnesses were examined as PW1 and PW2 and Exs.P1 to P6 were marked. On the side of the Transport Corporation, one John Kennedy was examined RW1 and no document was produced.

6.Upon consideration of the oral and documentary evidence, the Tribunal has awarded compensation of Rs.2,19,000/-. Challenging the said award, the present appeal has been filed.

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

8.The claimants to prove their case examined PW2 Raja, who is an eye witness to the accident. He has deposed that on the fateful day, he travelling along with the deceased and the accident happened only due to the negligence of the driver of the bus. Ex.P1 the first information report was registered against the driver of the bus and after investigation, the police have filed the final report against him under Ex.P2. The Tribunal, based on the evidence has rightly held that the driver was responsible for the accident.

9.The evidence of PW1 and the postmortem certificate (Ex.P3), death certificate (Ex.P5) would reveal that the deceased was 60 year old at the time of the accident. PW1 has stated that the deceased was working as a collie and she was earning Rs.100/- per day. The Tribunal assessed the income of the deceased as Rs.3000/- per month after deduciting 1/3rd towards her personal expenses. By applying the multiplier of '8', the Tribunal has awarded Rs.1,44,000/- towards loss of dependency; Rs.10,000/- each towards loss of love and affection to the claimants 1 to 7; Rs.2,000/- towards transportation expenses and Rs.3,000/- for funeral expenses. The Tribunal has totally awarded Rs.2,19,000/- together with interest at the rate of 7.5%. In my view, the award passed by the Tribunal is fair and reasonable and it is confirmed.

10.In fine, the appeal is dismissed and the award of the Tribunal is confirmed. The appellant Transport Corporation 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(AE)

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/True Copy/

Sub Assistant Registrar

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To

The Additional District Judge,
Fast Track Court No.1,
Madurai.

+1cc to Mr.M.Prakash Advocate Sr.No. 41034

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**Judgment made in
CMA(MD) No.731 of 2016
29.07.2016**