



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.733 of 2016

and

C.M.P. (MD) No.7311 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam Division - 3,
Karaikudi,
Sivagangai District.

... Appellant/Respondent No.2

Vs.

1. Manjula
2. Minor Muthuganesh
3. Minor Kishor
(Minors rep. by mother/guardian-
1st respondent herein)
4. Muthukumar
(4th respondent Exparte in the
Tribunal. Hence Given up)

... Respondents/Petitioners

... Respondent/Respondent

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.18 of 2006 dated 12th day of July 2009, on the file of the Motor Accident Claims Tribunal/Sub Court, Devakottai.

For Appellant : Mr.M.Prakash

JUDGMENT

Challenging the award passed by the Motor Accident Claims Tribunal, (Subordinate Court), Devakottai in M.C.O.P.No.18 of 2006, dated 12.07.2007, the Transport Corporation has preferred this appeal.

2. Heard Mr.M.Prakash, the learned counsel for the appellant and perused the records.

3. The brief facts of the case are that on 26.01.2005, the deceased Sekar was riding his T.V.S. Moped bearing Registration No.TN63-Y-9509 in Karaikudi and at that time, a bus belonging to



the appellant bearing Registration No.TN 45-N-1177 came in a rash and negligent manner, knocked down the deceased resulting instantaneous death. The legal heirs of the deceased filed a petition claiming compensation of Rs.12,00,000/- on the ground that the driver of the bus caused the accident.

4. The claim petition was resisted by the appellant by filing a counter contending that the accident occurred only due to the negligence of the deceased. So, they are not liable to pay compensation. It is also stated that the owner of the moped and the insurer are necessary parties to the claim petition.

5. The claimants examined P.W.2 who is an eyewitness to the accident. He deposed the manner of the accident, as set out in the claim petition. The claimants also marked Ex.P.1 First Information Report, Ex.P.4 report of the motor vehicle Inspector and Ex.P.3 final report filed in the criminal case. Ex.P.1 and Ex.P.3 would show that the criminal case was registered against the driver of the bus. The Tribunal accepting the evidence of the claimants rightly came to the conclusion that the driver of the bus was responsible for the accident.

6. P.W.1 has given evidence stating that the deceased was a gold smith and he was earning Rs.6,000/- per month. The Tribunal fixed the age of the deceased as 35 years, based on the evidence of P.W.1 and Ex.P.6 Postmortem Certificate. The Tribunal assessed the income of the deceased as Rs.3,000/- per month. After deducting 1/3rd of the income towards his personal expenses, by applying multiplier of '16', the Tribunal has awarded Rs.3,84,000/- towards loss of dependency; Rs.10,000/- towards funeral expenses; Rs.500/- towards damages to the clothes; Rs.400/- towards transport expenses; Rs.10,000/- towards loss of consortium to the first claimant; Rs.10,000/- towards loss of love and affection to the minor claimants 2 and 3. The Tribunal, has totally awarded Rs.4,14,900/- together with interest at 7.5% p.a.

7. Considering the above facts, the quantum awarded by the Tribunal is fair and reasonable, warranting no interference by this Court.

8. *In fine*, the award passed by the Tribunal dated 12.07.2007 is confirmed and the Civil Miscellaneous Appeal is dismissed. In view of the dismissal of this appeal, the appellant/Transport Corporation is directed to deposit the entire award amount along with interest and costs, if not already deposited, within a period of eight weeks, from the date of receipt of the copy of this Judgment.

<https://hcservices.courts.gov.in/hcservices> On deposit being made, the major claimant is permitted to withdraw her shares in the award amount along with proportionate interest and costs, without filing any formal petition before the Tribunal. The second and third claimant are minors and their share in the award amount shall be deposited in a



fixed deposit in any one of the Nationalized Bank, till they attain the age of majority. They shall be permitted to withdraw after attaining majority. No costs. Consequently, connected Miscellaneous Petition is also closed.

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Sd/-
Assistant Registrar

Sub Assistant Registrar

To

The Subordinate Judge,
The Motor Accidents Claims Tribunal,
Devakottai.

Copy To:-

The Section officer,
V.R.Section,
Madurai Bench of Madras Highcourt,
Madurai.

+ 1 CC TO MR.M.PRAKASH,ADVOCATE,SR.NO.41032

PMU
TE/SS2-KSM : 25/01/2017 : 3P/4C

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