



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2016

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) No.740 of 2016

and

C.M.P. (MD) .No.7328 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Karaikudi.

.. Appellant

Vs.

1.S.Latha
2.Minor S.Karthika
3.Minor S.Muthumani
4.P.Dhanalakshmi
5.P.K.Pathmanaban
6.P.Sakthivel
7.Renganathan

.. Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, against the judgment and decree passed in M.C.O.P.No.209 of 2009, dated 27.11.2009, by the Motor Accidents Claims Tribunal cum Additional District and Sessions Court, Special Court, Pudukkottai.

For Appellant

: Mr.M.Prakash

JUDGMENT

Aggrieved over the award passed by the Motor Accident Claims Tribunal/Additional District and Sessions Judge/Special Court, Pudukkottai, in M.C.O.P.No.209 of 2009, dated 27.11.2009, the Transport Corporation has preferred this appeal.

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

3. The respondents 1 to 7, who are the legal heirs of the deceased Saravanan, filed the claim petition seeking compensation of Rs.20 lakhs for the death of the said Saravanan, in a motor vehicle accident, occurred on 05.07.2008.

4. According to the claimants, on 05.07.2008, the deceased was travelling in an Auto bearing Reg. No.TN-55-D-6249 from his native place to Trichy, at about 4.30 a.m., a bus belonged to the appellant corporation came from Chennai to Ramanathapuram in a rash and negligent manner, and dashed against the Auto. In the
<https://hcmjcs.courts.gov.in/hcs/Services> was totally damaged and the deceased died on the spot. The claim petition was filed on the ground that the accident happened due to the negligence of the driver of the bus.



5. The appellant filed counter stating that the driver of the Auto came in high speed and dashed against the bus. So they are not liable to pay compensation.

6. In support of their case, the claimants examined PW2, Suresh @ Suresh Kumar, who is an eyewitness to the accident. He deposed that the occurrence had taken place due to the negligence of the driver of the bus. The driver of the bus was examined as RW1. The claimants have produced Ex.P1, the First Information Report and Ex.P4, a copy of the charge sheet. Ex.P1 and P4 would show that a criminal case was registered against the driver of the bus. Ex.P5 is the sketch. The Tribunal accepting the evidence of the claimants, rightly held that the driver of the bus was responsible for the accident.

7. PW3 and PW4, who are the President and Secretary, Pudukottai Auto Association have given evidence stating that the deceased was an auto driver and earning Rs.300/- per day. Since the claimants have not proved the income of the deceased through documentary evidence, the Tribunal assessed the income of the deceased as Rs.4,000/- per month and fixed the age of the deceased at 38 years. The Tribunal after deducting 1/4th towards his personal expenses, awarded Rs.5,76,000/- towards loss of income by applying multiplier of 16. In addition, the Tribunal has awarded Rs.5000/- towards funeral expenses; Rs.10,000/- for the first respondent towards loss of consortium and Rs.10,000/- towards loss of love and affection. The Tribunal has totally awarded a sum of Rs.6,01,000/- along with interest at the rate of 7.5% per annum.

8. In my considered opinion, the award of the Tribunal made in M.C.O.P.No.209 of 2009, dated 27.11.2009 is fair and reasonable. Therefore, the same is confirmed.

9. In the result, this Civil Miscellaneous Appeal is dismissed. In view of the dismissal of the appeal, the appellant is directed to deposit the entire award amount along with the proportionate interest and cost, within a period of eight weeks from the date of receipt of a copy of this Judgment, less amount, if any, already deposited. On such deposit, the claimants are permitted to withdraw the entire amount, less amount, if any, already received. Consequently connected miscellaneous petition is closed. No Costs.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

Additional District and Sessions Judge, Special Court,
(Motor Accidents Claims Tribunal), Pudukkottai.

+One cc to Mr.M.Prakash, Advocate, SR.No.41025

<https://hcservices.ecourts.gov.in/hcservices/>

RL/3C/2P/CK/SARI/25.10.2016

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