



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A.(MD)No.744 of 2016
and C.M.P.(MD) No. 7334 of 2016

State Express Transport Corporation,
No.2, Pallavan Salai,
Chennai.

... Appellant/Respondent
Vs.

1.Raju

2.Muthu Chinnammal

... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment passed in M.C.O.P.No.118 of 2006 dated 29.12.2006 on the file of the Motor Accident Claims Tribunal/Sub-Court, Kulithalai.

For Appellant : Mr.M.Prakash

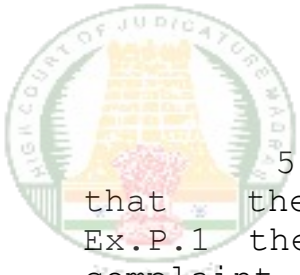
J U D G M E N T

This Civil Miscellaneous Appeal is directed by the Transport Corporation against the award dated 29.12.2006 passed by the Motor Accident Claims Tribunal-cum-Sub-Court, Kulithalai, in M.C.O.P.No.118 of 2006.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. The brief facts of the case are that on 18.05.2005, at 16.45 hours, when the deceased was travelling in TVS-50 from Kallupatti to Chethupatti as a pillion rider, a bus bearing Registration No. TN-01-N-6627 belonging to the appellant Corporation came in a rash and negligent manner from Madurai to Trichy and dashed the TVS Mopet. In the impact, the deceased was thrown away and sustained fatal injuries. The appellant resisted the claim by filing a counter disputing the nature of accident and their liability to pay compensation. It is specifically stated that the rider of TVS Mopet was responsible for the accident, so they are not liable to pay compensation.

4. Before the Tribunal, in support of their case, the deceased's relatives examined himself as P.W.1 and examined Mr.Alagu as P.W.2 and marked Exs.P.1 to P.2. On the side of the appellant, 2 witnesses were examined and Ex.R1 and R.2 were marked.



5. P.W.2 is an eye witness to the accident and he deposed that the manner of accident before the Tribunal. Ex.P.1 the First Information Report, shows that based on the complaint of P.W.2, a case was registered against the driver of the bus in Crime No.125 of 2005 in Thurankurichi Police Station. R.W.1 is the driver of the bus. The Tribunal, while rejecting the evidence of R.W.1, held that the accident occurred due to his negligence of the bus driver based on the evidence of P.W.2.

6. P.W.1 deposed that the deceased was 18 year old and he has studied up to 10th Standard and he was working as a Tailor and thereby earning Rs.3,000/- per month. The Tribunal based on the Postmortem certificate fixed the age of the deceased at 16 years and assessed the annual income of the deceased as Rs.15,000/-. After deducting 1/3rd towards personal expenses and by applying multiplier of '16' awarded Rs.1,60,000/- towards loss of dependency, Rs.20,000/- towards loss of love and affection and Rs.2,000/- towards funeral expenses and the Tribunal has totally awarded Rs.1,82,000/- along with interest at the rate of 6% per annum.

7. The Tribunal had awarded the amount under the following heads:

Heads	Amount
Loss of dependency	Rs. 1,60,000/-
Loss of love and affection	Rs. 20,000
For funeral expenses	Rs. 2,000/-
Total	Rs. 1,82,000/-

Challenging this amount, the appellant has filed this appeal.

8. In the considered opinion of this Court, the award passed by the Tribunal is fair and reasonable and the same is confirmed.

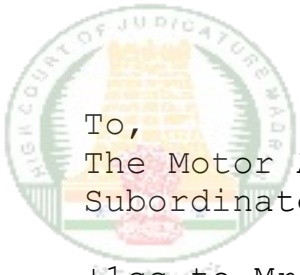
9. The Transport Corporation is directed to deposit the entire award amount with interest and costs within a period of eight weeks from the date of receipt of copy of this order, less the amount already deposited. On such deposit being made, the claimants are permitted to withdraw the entire award amount with interest and costs.

10. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected C.M.P.(MD) No.7334 of 2016 is also dismissed.

Sd/-

Assistant Registrar(AE)

/True copy/



To,
The Motor Accident Claims Tribunal,
Subordinate Judge, Kulithalai.

+1cc to Mr.M.Prakash, Advocate SR.No.41021

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C.M.A. (MD) No. 744 of 2016
and C.M.P. (MD) No. 7334 of 2016
23.08.2016