



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. 746 of 2016

and

C.M.P. (MD) No. 7336 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Marudhupathi,
Managiri Road,
Karaikudi Town,
Sivagangai District.

... Appellant / Respondent
Vs.

1. Shanthi
2. Muthu
3. Minor Sreevidhya
4. Minor Priya
5. Alagar
6. Vellaiyammal

... Respondents / Petitioners

(3rd & 4th minor respondents are
represented through their Mother
and natural guardian of 1st respondent
herein)

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 11.03.2010 passed in M.C.O.P.No.202 of 2005 by the Motor Accident Claims Tribunal cum District Court, Sivagangai.

For Appellant : Mr.M.Prakash
For Respondent : Mr.S.Srinivasa Raghavan

JUDGMENT

Aggrieved by the award dated 11.03.2010 passed by the Motor Accident Claims Tribunal cum District Court, Sivagangai, in M.C.O.P.No.202 of 2005, the appellant / Transport Corporation has filed this Civil Miscellaneous Appeal.

2.The legal heirs of the deceased Mookiah filed a petition claiming compensation of Rs.10 lakhs alleging that on 16.07.2005 when the deceased was travelling in a bus belonging to the appellant from Sivagangai to Arasanoor, the driver of the bus drove it in high speed and also with rash and negligent manner. As a result of which, he lost the control of the vehicle and dashed against the bridge and capsized. In the accident, the deceased died on the spot.



3.The appellant filed a counter stating that when the bus was proceeding from Sivagangai and when it was nearing Arasanoor, the steering joint of the bus broke down, which resulted the capsizing the bus. Since it is an act of God, they are not liable to pay compensation.

4.Before the Tribunal, P.W.2 Subramaniyan deposed that at the time of accident, he was travelling along with the deceased and the accident happened only due to negligent driving of the driver of the bus. P.W.1 has also corroborated the evidence of P.W.2. The claimants have produced Ex.P1 FIR, Ex.P2 site map and Ex.P3 Charge sheet. The Tribunal, accepting the evidence of the claimant rightly came to the conclusion that the driver of the bus had caused the accident.

5.P.W.3 Arjunan has given evidence stating that the deceased was 38 year old at the time of accident and he was earning Rs.15,000/- to Rs.20,000/- per month. The claimants have produced Ex.P6 receipts to prove the income of the deceased. However, the Tribunal assessed the monthly income as Rs.3,000/- and after deducting one third towards personal expenses held that he was contributing Rs.24,000/- p.a. to his family. By applying multiplier 16, the Tribunal awarded Rs.3,84,000/- towards loss of dependency; Rs.30,000/- towards loss of love and affection; Rs.10,000/- towards loss of consortium and Rs.5,000/- for funeral expenses and Rs.1,000/- for transportation charges. The Tribunal totally awarded Rs.4,30,000/- along with interest at the rate of 7.5% per annum. I am of the view that the award passed by the Tribunal is fair and reasonable, hence, I do not find any merit in this appeal.

6.In the result, the award of the Tribunal is confirmed and the Civil Miscellaneous Appeal is dismissed. The appellant / Transport Corporation is directed to deposit the entire award amount with accrued interest and costs, within a period of 8 weeks from the date of receipt of a copy of this judgment, less the amount already deposited if any. On such deposit being made, the claimants are permitted to withdraw the award amount with interest and costs as apportioned by the Tribunal. No costs. Consequently, connected C.M.P.is closed.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar



To

1. The Motor Accident Claims Tribunal cum District Court,
Sivagangai.

Copy To: The Section Officer

E.R & V.R. Section,

Madurai Bench of Madras High Court, Madurai.

+1 cc to M/s.M.Prakash, Advocate in SR.No.41019

+1 cc to M/s.S.Srinivasa Raghavan, Advocate in SR.No.41058

NBJ

CSL/DB/28.11.2016 :3P/5C

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