



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2016

Coram:

WEB COPY

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A(MD).No.973 of 2014
and
M.P(MD).No.1 of 2014

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

.. Appellant/3rd Respondent

-Vs-

1.Jareena begam
2.Minor Saida Begam
3.Minor Abuparakath

(The 2 and 3 are minors rep
by their mother and guardian
the 1st Respondent)

4.Pathoorsalman

.. Respondents 1 to 4/Petitioners

5.Ramaiah

(The 5th respondent is the driver of the
appellant and that notice
may be dispensed with)

6.The Managing Director,
Tamil Nadu State Transport Corporation,
Maruthupathi nagar, Karaikudi,
Sivagangai District.

.. Respondents 5&6 /RR 1 & 2

(6th respondent is the sister corporation of the appellant and that
notice may be dispensed with).

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988, to allow this appeal and set aside the
judgment and decree, dated 31.01.2014, passed in M.C.O.P.No.116 of
2010, on the file of the Motor Accidents Claims Tribunal/Subordinate
Court, Devakkottai.

For Appellant : Mr.P.Prabhakaran

For R1 to R3 : Mr.P.Chella pandian

for M/s.D.Venkatesh

**JUDGMENT**

This Civil Miscellaneous Appeal has been filed to set aside the judgment and decree, dated 31.01.2014, passed in M.C.O.P.No.116 of 2010, on the file of the Motor Accidents Claims Tribunal/Subordinate Court, Devakkottai.

2. It is a case of fatal accident occurred on account of the accident took place on 23.02.2010, around 01.25 p.m. near Thiruvadanai Taluk, Thondi Chekpost. The legal heirs of the deceased filed an application seeking compensation in M.C.O.P.116 of 2010 before the Motor Accidents Claims Tribunal/Subordinate Court, Devakkottai and the Tribunal, considering the facts and circumstances of the case, granted a sum of Rs.7,07,000/- as total compensation. Challenging the same, the appellant, Tamil Nadu Transport Corporation preferred this appeal mainly on the ground of quantum.

3. Heard the learned counsel for the appellant and the learned counsel for the R1 to R3/claimants and perused the materials available on record.

4.The learned counsel for the appellant contended that the deceased was driving the two-wheeler in a drunken mood and he would not possess any valid driving license and also not wear helmet. Therefore, he has also contributed for the accident and the Tribunal erroneously fixed the entire liability on the appellant Transport Corporation, instead of considering the contributory negligence on the part of the deceased person who was riding the two-wheeler.

5. The learned counsel for the respondents/claimants opposed the appeal by stating that it is a case of fatal accident and the person who died in the accident was aged about 40 years and he was working as Electrician.

6.Considering the submission of the learned counsel for the R1 to R3/claimants, this Court is of the view that since the unfortunate fatal accident caused at the time of crossing the road, by the deceased in a two-wheeler, the Tribunal has rightly awarded compensation by considering the number of dependents involved in the present case, more specifically, wife, two minor children and father, totally four dependents. The deceased was the only bread winner of the family and he died in the crucial age of 40 years and at the time he was working as an Electrician. Such being the pathetic situation of the family and considering the facts and circumstances of the case, this Court is not inclined to reduce the quantum of award granted by the Tribunal and accordingly the award passed in M.C.O.P.No.116 of 2010, dated 31.01.2014, by the Motor Accidents Claims Tribunal/Sub Ordinate and Assistant Sessions Court, Devakkottai, is confirmed.



7. In the result this Civil Miscellaneous Appeal is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

8. The appellant/Tamil Nadu State Transport Corporation is directed to deposit the entire award amount with accrued interest and costs, to the credit of M.C.O.P.No.116 of 2010, dated 31.01.2014, on the file of the Motor Accidents Claims Tribunal/Sub Ordinate and Assistant Sessions Court, Devakkottai, within a period of four weeks, from the date of receipt of a copy of this judgment, if not already deposited, and on such deposit being made, the respondents 1 and 4/claimants 1 and 4 are permitted to withdraw their share as apportioned by the Tribunal with proportionate interest and costs, through RTGS by filing necessary application before the Tribunal concerned. With regard to the minors, the Tribunal is directed to deposit the share of the minor claimants in any one of the Nationalised Banks, in a Fixed Deposit scheme, till they attain majority. The first respondent, who is the mother and guardian of the minors/2nd and 3rd respondents, is permitted to withdraw the accrued interest from the share of the minors, once in three months directly from the bank, only for the welfare of the minors.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal,
Subordinate Judge,
Devakkottai.
2. The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.M/S.P.PRABHAKARAN, ADVOCATE IN SR No. 78843
+ 1 CC TO M/S.D.VENKATESH, ADVOCATE IN SR No. 78636

PJL

TE/SS2-KSM : 19/01/2017 : 3P/5C

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