



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) No.927 of 2016

and

C.M.P. (MD) No.8426 of 2016

The Branch Manager,
Tamil Nadu State Transport Corporation
(Madurai Division),
Vannarapettai, Tirunelveli District. ...Appellant/2nd Respondent

Vs.

1.Durga Selvi
2.Minor Mahalakshmi
3.Minor Sakthi
(Minors 2 and 3 represented by their
Mother/Guardian first respondent
herein)
4.Lakshmi .. 1-4 Respondents/Petitioners
5.Jayaseelan ... 5th Respondent/1st Respondent

(5th respondent is a driver of
the appellant bus. Hence, notice
given up)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.18 of 2009, dated 08.07.2011, on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Ambasamudram.

For Appellant : Mr.M.Prakash

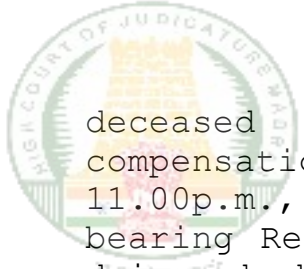
J U D G M E N T

This Civil Miscellaneous Appeal is preferred against the award passed by the Motor Accident Claims Tribunal, Subordinate Judge, Ambasamudram in M.C.O.P.No.18 of 2009.

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

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

3. The wife, the minor children and the mother of the



deceased Mariappan filed M.C.O.P.No.18 of 2009 claiming compensation of Rs.7,00,000/- alleging that on 08.11.2008 at about 11.00p.m., when the deceased was attempting to board the bus bearing Registration No. TN-72-0991 at Tirunelveli bus stand, the driver had moved the vehicle in a rash and negligent manner and due to which, he fell down and sustained injuries. Immediately, he was admitted in Sakthi Hospital, where he was declared dead. A criminal case in Cr.No.1068 of 2008 was registered against the driver of the bus by the Inspector of Police, Tirunelveli Palam Police Station.

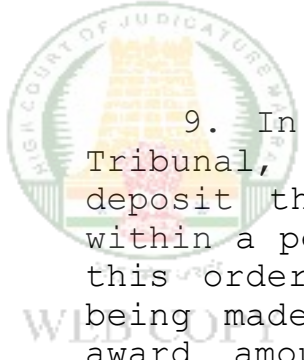
4. The claim was resisted by the appellant - State Transport Corporation, by filing a counter affidavit stating that the deceased attempted to get into the running bus and he lost his control and fell down. Since the deceased was responsible for the accident, the Transport Corporation is not liable to pay compensation to the claimants.

5. P.W.2 - Chandru is an eye-witness to the occurrence and he has narrated the manner of the accident in his evidence. The claimants have produced Ex.P.1 - a copy of the First Information Report; Ex.P.2 - charge sheet filed against the driver of the bus; Ex.P.4 - sketch; Ex.P.5- observation mahazor and Ex.P.6 - report of the Motor Vehicle Inspector. The appellant has not examined any witnesses nor marked any document.

6. The Tribunal, based upon the oral and documentary evidences available on record, has come to the conclusion that the driver of the bus and the deceased were responsible for the accident and fixed the ratio at 75:25.

7. According to the claimants, the deceased was working at Janakiram Hotel at Tirunelveli and he was earning a sum of Rs.8,000/- p.m. including batta. The Tribunal assessed the income at Rs.6,000/- p.m. and after deducting 1/3rd in the salary for his personal expenses, held that he contributed a sum of Rs.4,000/- to his family. Following the decision rendered in **Smt.Sarla Verma and Others V. Delhi Transport Corporation and another** reported in **2009(2) TNMAC 1 (SC)**, the Tribunal has applied the multiplier of 16 and awarded Rs.5,76,000/- towards loss of income; Rs.15,000/- to the first claimant for loss of consortium and Rs.20,000/- to the claimants 2 and 3 for loss of love and affection. The Tribunal has totally awarded a sum of Rs.6,11,000/- along with interest at 7.5% p.a. Challenging the said award amount, the appellant - Transport Corporation 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. In view of the confirmation of the award passed by the Tribunal, the appellant - Transport Corporation is directed to deposit the entire award amount along 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 as apportioned by the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

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To,

1 The Motor Accident Claims Tribunal
Subordinate Judge, Ambasamudram.

2 The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai

+1cc to Mr.M.Prakash Advocate Sr.No. 50678

JAM/27.12.16/SK/3p-4c

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