



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.928 of 2016
and
CMP(MD)No.8427 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai Division) Ltd.,
Vannarapettai, Tirunelveli.

: Appellant/respondent

Vs

1.Noorjahan
2.Sheik Seyadu Ali
3.Minor Shajitha Parveen
4.Aminal Beevi
5.Fathima Banu
6.Maideen Pitchai
7.Nagoor Meeran
8.Abdul Rasheem
9.Shrajuddeen

: Respondents/Petitioners

[3rd respondent Minor rep. by
Mother/Next Friend-1st respondent
herein)
(4th respondent claim dismissed, hence
notice given up)

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in MCOP No.293 of 2008, dated 30.07.2009 on the file of the Motor Accident Claims Tribunal (Additional District Court-cum-FTC No.2), Tirunelveli.

For Appellant : Mr.M.Prakash

JUDGMENT

The Managing Director of Tamil Nadu State Transport Corporation (Madurai Division), Tirunelveli, has filed this appeal questioning the award of compensation by the Motor Accidents Claims Tribunal (Additional District Judge/FCT No.2), Tirunelveli, made in MCOP



No.293 of 2008, dated 30.07.2009.

2.The wife and the children of the deceased Seyadu preferred a claim seeking compensation of Rs.7,00,000/- for his death in a motor vehicle accident on 18.06.2007. The case of the claimants is that on the date of the accident, when the the deceased Seyadu was riding his bicycle in the Papanasam-Ambasamudram Main Road, near Ambasamudram Senior Bajanai Madam, the bus of the appellant Transport Corporation bearing registration No.TN-72-N-0994 without following the rules, came in a rash and negligent manner and hit against the deceased. Due to the injuries sustained, he succumbed to the injuries on the same day.

3.The appellant opposed the claim petition by filing a counter statement disputing the manner of the injuries sustained by the deceased and the manner of the accident and their liability to pay the compensation.

4.Before the tribunal, the 9th claimant has given evidence as PW2 and he has deposed in tune with the allegations made in the claim petition. RW1 the driver of the bus deposed that he was not responsible for the accident and the accident had taken place due to the negligence of the deceased. Ex.P1 the First Information Report was registered based on the complaint of PW1. After investigation, the police filed a final report under Ex.P5. The claimants had produced Exs.P3 and P4 the sketch and the observation mazahar. After analysing the entire evidence, in my considered view, the Tribunal has rightly come to the conclusion that the driver of the bus was responsible for the accident.

5.Further, PW1 has deposed that the deceased was about 60 years and he was running a provisional stores and thereby earning Rs.6,000/- per month. Since the claimants have not produced any proof of income and the age, by analysing the documentary evidence, the tribunal has taken the monthly income of the deceased as Rs.4,500/- and by applying multiplier of '9', calculated the income of the deceased as Rs.4,86,000/-. After deducting 1/5th towards his personal expenses, the tribunal has awarded Rs.3,89,000/- towards loss of dependency; further sum of Rs.20,000/- was awarded for loss of love and affection; Rs.10,000/- under loss of estate and Rs.5,000/- for funeral expenses. In total, the tribunal has awarded compensation of **Rs.4,24,000/-** together with interest @ 7.5% p.a. This court is of the considered view that the award of the tribunal is fair and reasonable.

6.In fine, the appeal is dismissed and the award of the Tribunal is confirmed. The appellant Transport Corporation is directed to deposit the entire amount together with the interest and costs within a period of eight weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit, the claimants are permitted to withdraw the entire amount as apportioned by the tribunal without filing any formal application before the



WEB COPY

3

Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The Additional District and Sessions Judge,
Fast Track Court No.2,
Motor Accident Claims Tribunal,
Tirunelveli.

+ 1 CC TO Mr.M.PRAKASH, ADVOCATE IN SR No. 50680

ER

TE/SV-MMS/SAR-IV : 05/04/2017 : 3P/3C

Judgment made in
CMA (MD) No.928 of 2016 and
CMP (MD) No.8427 of 2016
02.09.2016