



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.949 of 2016
and
CMP(MD)No.8511 of 2016

The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Vannarapettai,
Tirunelveli-03.

: Appellant/Respondent

Vs.

1.Saraswathy
2.R.Sounder
3.Muppidathi

: Respondents/Petitioners

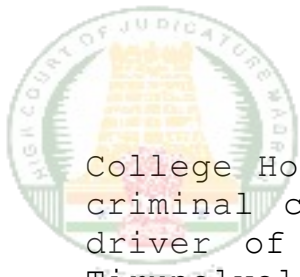
Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree passed in MCOP No.926 of 2009, dated 02nd Day of August 2010 on the file of the Motor Accident Claims Tribunal/I Additional District Court, Tirunelveli.

For Appellant : Mr.N.Prakash

J U D G M E N T

This appeal is preferred by the Appellant Transport Corporation, questioning the award passed by the Motor Accidents Claims Tribunal (I Additional District Court), Tirunelveli, in MCOP No.926 of 2009, dated 02.08.2010.

2.MCOP No.926 of 2009 was filed by the parents and sister of the deceased namely Perumal, who died in a motor vehicle accident occurred on 14.07.2009. According to the claimants, the deceased was riding the TVS XL moped bearing registration No.TN-72-H-2026 on 14.07.2009 at 3.45 p.m, from south to north direction in Tirunelveli-Tenkasi main road. At the time, a bus bearing registration No.TN-72-N-1104 belonging to the appellant Transport Corporation came in a rash and negligent manner from the opposite direction, hit against the moped. In the impact, the deceased was thrown away from the moped and sustained grievous injuries all over the body. Despite treatment given at Tirunelveli Medical



College Hospital, he succumbed to the injuries on the same day. A criminal case in Crime No.16 of 2009 was registered against the driver of the bus under Sections 279, 337 @ 304A IPC by the Tirunelveli Traffic Investigation Wing.

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3.The appellant resisted the claim, disputing the age, occupation and monthly income of the deceased as well as the manner of the accident. It is further stated that on seeing the moped coming on wrong side of the road, the driver of the bus had driven into the left side of the road, despite the same, the moped dashed on the front right side body of the bus, resulting the deceased sustained injuries. So, the appellant is not liable to pay the compensation.

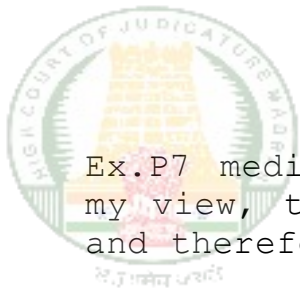
4.Before the Tribunal, on the side of the claimants, two witnesses were examined as PW1 and PW2 and Exs.P1 to P8 were marked. On the side of the Transport Corporation, the driver of the bus was examined as RW1, but no documents were produced.

5.The Tribunal, upon consideration of the oral and documentary evidence, has awarded compensation of Rs.4,41,134/- with interest @ 7.5% p.a. Challenging the said award, the present appeal has been filed.

6.Heard Mr.M.Prakash, the learned counsel appearing for the appellant Transport Corporation and perused the materials available on record.

7.PW2 was examined as an eye witness to the occurrence. He deposed that he was riding another two wheeler behind the moped of the victim and saw that the driver of the bus came in a very high speed and in a reckless manner and dashed against the victim. Ex.P1 is the First Information Report and Ex.P4 is the copy of the charge sheet. They would show that a criminal case was registered against the driver of the bus and after investigation, a final report was filed against him. Ex.P3 is the report of the Motor Vehicle Inspector. RW1 has admitted that a criminal case was registered against him. After considering the evidence, both oral and documentary, the Tribunal has rightly held that the driver of the bus was responsible for the accident.

8.PW1 the mother of the deceased deposed that his son is 19 year old at the time of the accident and he was earning a sum of Rs.4,500/- per month. Ex.P2 postmortem certificate corroborates the evidence of PW1. The Tribunal assessed the annual income of the deceased as Rs.36,000/-. After deducting 1/3rd towards his personal expenses and by applying the multiplier of '11', the Tribunal awarded Rs.3,96,000/- towards loss of income; Rs.20,000/- for mental stress and shock; Rs.15,000/- for loss of love and affection; Rs.5134/- towards medical expenses based on



Ex.P7 medical bills and Rs.5,000/- towards funeral expenses. In my view, the award passed by the Tribunal is fair and reasonable and therefore, it is confirmed.

9. In fine, the appeal is dismissed. 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. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar(C.S-II)

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Sub Assistant Registrar

To

The 1st Additional District Judge,
(Motor Accident Claims Tribunal), Tirunelveli.

+1cc to M/s.M.Prakash, Advocate, in SR No.50677.

Judgment made in
CMA(MD)No.949 of 2016
02.09.2016

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msm/sk-skn/sar1/09.11.16/p3/3c