



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. (MD) No.1024 of 2016
and
C.M.P. (MD) No.9248 of 2016

Tamil Nadu State Transport
Corporation Ltd.,
rep.by its Managing Director
Karaikudi ... Appellant / 1st Respondent

-vs-

1.Sithi Aburaj Banu
2.Minor Halimath Safathiya ... Respondents / Petitioners
rep.by R1 mother
3.Saithun Beevi ... 3rd Respondent / 2nd Respondent

Appeal filed Section 173 of Motor Vehicle Act, 1988 to set aside the Judgment and Decree, dated 20.08.2003, made in M.C.O.P.No.162 of 2001, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Ramnad.

For Appellant : Mr.K.Gokul

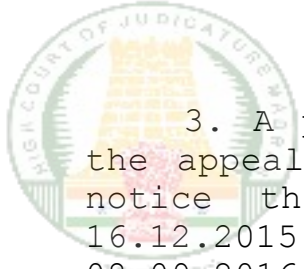
For Respondents : Mr.S.Gopinath

J U D G M E N T

[Judgment of the Court was made by M.SATHYANARAYANAN, J.]

Mr.S.Gopinath, learned counsel, takes notice on behalf of the respondents and with the consent of both sides, this civil miscellaneous appeal is taken up for final disposal at the admission stage itself.

2. Aggrieved by the Award and Decree, dated 20.08.2003, passed in M.C.O.P.No.162 of 2001, by the learned Chief Judicial Magistrate, Motor Accident Claims Tribunal, Ramnad, awarding a compensation of Rs.2,40,000/- together with interest at the rate of 9% per annum from the date of filing the claim petition till the date of deposit and costs, Tamil Nadu State Transport Corporation, has filed this civil miscellaneous appeal.



3. A perusal of the typed set of papers would disclose that the appeal was filed on 24.06.2005 with a delay of 171 days and notice through Court as well as privately was ordered on 16.12.2015 and thereafter the condone delay petition was listed on 08.09.2016, 14.09.2015 and 15.09.2016.

4. The learned Standing Counsel appearing for the appellant / Transport Corporation prayed for time to get necessary instructions as to the latest position.

5. The learned counsel appearing for the respondents 1 and 2 / claimants would submit that the entire compensation amount together with interest and costs deposited by the appellant / Transport Corporation has been withdrawn by the claimants and therefore nothing survives for adjudication in this appeal.

6. A perusal of the impugned Award would disclose that negligence has been fixed on the driver of the appellant / Transport Corporation's bus and insofar as the quantum of compensation is concerned, the Tribunal taking into consideration the fact that the deceased Hakkim was employed in Malaysia and he was earning 800 Malaysian Dollars per month and also taking into consideration Ex.P9, which would disclose that the deceased was employed in Malaysia between 1997 and 2000, fixed his annual income at Rs.15,000/- and after deducting 1/3rd of his income for his personal expenses and also taking note of the compensation claimed under various heads, arrived at the total compensation of Rs.2,40,000/- and directed the appellant / Transport Corporation to pay the compensation to the claimants and apportioned the same between them.

7. In the light of the long passage of time nearly about 11 years coupled with the fact that the entire compensation amount together with interest and costs, deposited by the appellant / Transport Corporation, has been withdrawn by the claimants and further this Court is of the view that the Tribunal has taken into consideration the oral and documentary evidence in a proper perspective manner and the impugned Award does not warrant interference of this Court, the civil miscellaneous appeal deserves dismissal.

8. In the result, the civil miscellaneous appeal is dismissed and the Award and Decree, dated 20.08.2003, passed in M.C.O.P.No.162 of 2001, by the learned Chief Judicial Magistrate, Motor Accident Claims Tribunal, Ramnad, are confirmed. Consequently, connected civil miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(Writs)

/True copy/



To:

1. The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Ramnad.

WEB COPY

2. The Section Officer,
VR Section,
Madurai Bench of Madras High court, Madurai.

Krk

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