



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2016

Coram:

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

C.M.A(MD)Nos.478 and 479 of 2016

and

C.M.P(MD)Nos.6118 & 6120 of 2016

1.C.M.A(MD)No.478 of 2016:-

The Managing Director,

The Tamil Nadu State Transport Corporation,

Tiruchirappalli & Munsif.

.. Appellant/Respondent

-Vs-

1.Sulaika Banu

2.Minor Abiya

Mohammed Farook (died)

3.Jameela Hathoon

.. Respondents/Petitioners

(Minor R - 2 rep. By her natural
guardian R - 1)

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 30.04.2010 made in M.C.O.P.No.66 of 2009 on the file of the Motor Accident Claims Tribunal/Additional District and Sessions Court cum EC Act Cases Special Court, Thanjavur.

For Appellant : Mr.M.Prakash

2.C.M.A(MD)No.479 of 2016:-

The Managing Director,

The Tamil Nadu State Transport Corporation,

Tiruchirappalli & Munsif.

.. Appellant/Respondent

-Vs-

1.Amaladoss

2.Jeya Mary

3.Jenifer

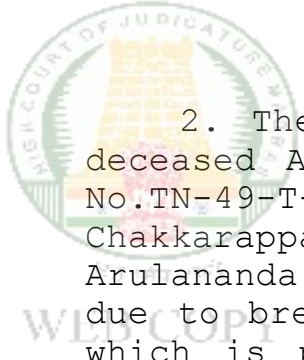
.. Respondents/Petitioners

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 30.04.2010 made in M.C.O.P.No.67 of 2009 on the file of the Motor Accident Claims Tribunal/Additional District and Sessions Court cum EC Act Cases Special Court, Thanjavur.

For Appellant : Mr.M.Prakash

JUDGMENT

Aggrieved over the award passed by the Motor Accidents Claims Tribunal (Additional District and Sessions Court cum EC Act Cases Special Court, Thanjavur) made in M.C.O.P.No.66 of 2009 and M.C.O.P.No.67 of 2009, the Transport Corporation has preferred the present appeals.



2. The brief facts of the case are that on 23.06.2008, the deceased Akbar Ali was travelling in a car bearing Registration No.TN-49-T-0157 along with his wife and children from Chakkarappalli to Chennai and the car was driven by the deceased-Arulananda Rajesh. When the car was stopped near Saram Panchalai due to break down, the bus bearing Registration No.TN-45-N-2657, which is proceeding on the same direction, came in a rash and negligent manner and rammed the stationary car. In the impact, both Akbar Ali and Arulananda Rajesh sustained grievous injuries and they were taken to Government Hospital, Thindivanam, where the said Akbar Ali was declared dead and the driver, despite treatment, died on 02.07.2008. The claim petitions were filed by the legal heirs of the deceased claiming compensation alleging that the driver of the bus was responsible for the accident.

3. The appellant resisted the claim petitions disputing the manner of accident and their liability.

4. To fortify their case, the first claimant in both the petitions were examined themselves as P.W.1 and P.W.2 and marked 14 documents and on the side of the appellant, one Rajamanickam was examined as R.W.1 and they have not produced any documents.

5. The Tribunal, upon consideration of the oral and documentary evidence, held that the accident had taken place due to negligence of the driver of the bus and awarded compensation of Rs.17,53,000/- together with interest at the rate of 7.5% p.a. in M.C.O.P.No.66 of 2009 and Rs.4,18,000/- together with interest at the rate of 7.5% p.a. in M.C.O.P.No.67 of 2009. Challenging the award, the present appeals have been preferred.

6. Heard Mr.M.Prakash, learned counsel appearing for the appellant and perused the records.

7. According to the claimants, the driver of the bus came in a high speed and dashed against the stationary car. P.W.1, who is one of the passenger in the car, has given evidence stating that the car was parked near Olakur on Thindivanam-Chennai Highway due to break down and at that time, the driver of the bus caused the accident. Ex.P.1 is the First Information Report and Ex.P.3 is the sketch. R.W.1, who is the conductor of the bus, has given evidence stating that the car was parked in the middle of the road without proper signal. P.W.2 also corroborated the evidence of P.W.1.

8. The Tribunal based on the evidence of P.Ws.1 and 2, Ex.P.1 and Ex.P.3 rightly held that the accident had occurred due to the negligence of the driver of the bus.

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9. In M.C.O.P.No.66 of 2009, P.W.1 has deposed that her husband was 27 years old at the time of accident and he was working as a Captain in Food Beverage Department at Crown Plaza, Kuwait and earning a sum of Rs.26,250/- per month. Ex.P.5-



Certificate shows that he has studied catering technology, Ex.P.6 is the passport, Ex.P.8 is the copy of the agreement with hotel Crown Plaza and Ex.P.9 is the salary slip. Ex.P.10 to Ex.P.12 shows that the deceased was working in the hotel, since January 2007 to June, 2008.

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10. The Tribunal based on the evidence of P.W.1 and documentary evidence referred supra, held that the deceased was earning Rs.12,000/- per month and awarded Rs.17,28,000/- towards loss of dependency. The Tribunal has awarded Rs.10,000/- to the first claimant towards loss of consortium; Rs.10,000/- towards loss of love and affection; Rs.2,000/- towards transport charges and Rs.3,000/- for funeral expenses. The Tribunal totally awarded a compensation of Rs.17,53,000/- together with interest at the rate of 7.5% per annum.

11. In M.C.O.P.No.67 of 2009, Ex.P.13-post mortem certificate would reveal that the deceased Arulanandha Rajesh was 24 years old at the time of accident. The Tribunal fixed income of the deceased as Rs.3,000/- per month and awarded Rs.4,08,000/- towards loss of income; Rs.5,000/- towards loss of love and affection; Rs.2,000/- towards transport charges and Rs.3,000/- towards funeral expenses. The Tribunal totally awarded a compensation of Rs.4,18,000/- together with interest at the rate of 7.5% per annum.

12. In my considered opinion, the award of the Tribunal is fair and reasonable and the same is confirmed. In fine, these Civil Miscellaneous Appeals are dismissed. No costs. The appellant is directed to deposit the entire award amount along with proportionate interest and costs within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited. In view of the dismissal of the appeals, the claimants are permitted to withdraw the entire award amount along with proportionate interest and costs without filing any formal petition before the Tribunal. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To
The Motor Accident Claims Tribunal/
Additional District and Sessions Court
cum EC Act Cases Special Court, Thanjavur.
+2ccs to Mr.M.Prakash, Advocate, SR.Nos.32598 and 32603

ps

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