

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.363 of 2015
and
M.P.No.1 of 2015

The Managing Director
Tamilnadu State Transport Corporation,
Villupuram Division-III,
No.1, Sheikpet Nadu Street,
Kanchipuram. Appellant / Respondent

Vs.

1. Damodaran
2. Tmt.Kumari
3. Sekar
4. Minor Priya
(Minor rept., by her father natural
guardian Demodaran) Respondents / Petitioners

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act 59 of 1988 against the judgment and decree dated 24.07.2012 made in M.C.O.P.No.87 of 2010 on the file of Motor Accident Claims Tribunal- District Judge-2, Kanchipuram.

For Petitioner : Mr.S.Sairaman
For Respondent : Mr.T.Pappaiah Dharmarajan

J U D G M E N T

Challenging the negligence as well as quantum of compensation awarded by the Tribunal, the State Transport Corporation has come up with this Civil Miscellaneous Appeal.

2. One Mr.Murugan, aged 19 years (at the time of accident), a silk weaver, earning a sum of Rs.6,000/- p.m. died in an accident that occurred on 27.11.2002. Hence, his mother, father brother and sister has filed a claim petition in

M.C.O.P.No.87 of 2010, on the file of Motor Accident Claims Tribunal, Kancheepuram, claiming compensation for a sum of Rs.18,40,000/-. The Claims Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.4,04,000/-@ 7.5% interest from the date of petition, till the date of deposit.

3. Challenging the same as excessive and disproportionate, the transport Corporation has filed this appeal.

4. The learned counsel for the appellant would submit that no police officer was examined to prove the negligence on the part of the bus driver. He would further submit that the claims tribunal, erred in relying upon the evidence of the claimant's side in respect of negligence aspect. It is his further submission that the amount award is very high and the same has to be reduced.

5. Heard both sides and perused the materials on record.

6. The tribunal, on relying upon the decision of the Hon'ble Supreme Court in New India Assurance Company Limited Vs. Kalapana and others reported in 2007 (1) TNMAC 1 (SC) has fixed the monthly income at Rs.3,000/-p.m. and after deducting 1/3rd arrived at Rs.2,000/- p.m. and by adopting multiplier 16 has awarded a sum of Rs.3,84,000/- (2000x12x16) towards loss of earnings, which is not excessive.

7. The Claims Tribunal further awarded a sum of Rs.10,000/- towards love and affection, a sum of Rs.5,000/- for transportation and another sum of Rs.5,000/- towards funeral expenses, which is reasonable.

8. The Claims Tribunal has rightly awarded compensation by considering oral and documentary evidence and hence the same does not warrant any interference.

9. As far as negligence is concerned, the tribunal has rightly taken into consideration Ex.P1- First Information Report, wherein it is clearly stated that the driver of the transport corporation is responsible for the accident. No document is produced on the side of the Transport Corporation to prove the negligence on the part of the deceased.

10. In the result, this Civil Miscellaneous Appeal is dismissed confirming the Judgment and decree of the Claims Tribunal, in M.C.O.P.No.87 of 2010, dated 24.07.2012. The Transport Corporation is directed to deposit the compensation amount awarded by the Tribunal, within a period of six weeks

from the date of receipt of a copy of this order. No costs.
Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arr

To

The Motor Accident Claims Tribunal,
District Judge-2,
Kancheepuram.

+1cc to Mr.Manokaran, Advocate, S.R.No.16456

CMA.No.363 of 2015

NM(CO)
RS(03/04/2017)



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