

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2017

CORAM : THE HON'BLE Mr.JUSTICE N. SESHASAYEE

C.M.A.No.2048 of 2012
and MP.No.1 of 2007

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Kumbakonam Division II,) Trichy.

.. Appellant/2nd
Respondent

Vs

1.Lakshmi
2.Minor Monisha
3.Minor Bhuvanesh
Minors Rep. by Mother Lakshmi
4.Karuppaammal
5.Kandasamy
6.P.K.Rajendran
[R6 Given up]

...Respondents/1 to 5
Petitioners & 1 to 5 Respondent

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act 1988 against the award made in MCOP.No.624 of 2008 dated 10.02.2011 on the file of the Motor Vehicles Accident Claims Tribunal, Principal District Judge, I/c., of I Additional District Judge, Erode.

For Appellant : Mr.D.Venkatachalam
For Respondents : Mr.V.S.Kesavan [R1 to R5]
R6 - Given up

JUDGMENT

The Transport Corporation that faces the liability to pay compensation for the negligence of the first respondent in driving one of its buses bearing registration No.TN45-N-2150 in fatally knocking down a motorcyclist challenges the award passed in MCOP.No.624 of 2008 on the file of the Motor Accident Claims Tribunal, (Principal District Judge i/c of I Additional District Judge, Erode. The claimants before the court are widow, two children and parents of one Thangavel. On 30.08.2007 at about 3.20 p.m. while Thangavel was riding his motorcycle along with a pillion rider, the State Transport bus bearing registration No.TN45-N-2150 came from the opposite direction and collided

with the motorcycle head on owing to which, the rider of the motorcycle was killed on the spot. Seeking compensation under various heads the legal representatives of the victim preferred a claim for Rs.10,00,000/-, but considering the nature of evidence before it, the Tribunal determined the compensation at Rs.5,48,000/- payable with interest at 7.5% per annum.

2. In its counter the appellant had contended that its driver was not at fault and narrated the accident as one solely caused by the rider of the motorcycle. It would plead that at about the scene of occurrence, the lorry was parked on the right hand side and another lorry was coming from the opposite direction, and on seeing the on coming bus before it the lorry also swirled to its left and parked before the stationary lorry referred to earlier. Even as this was happening, Thangavel came in his motorcycle at a hectic speed and literally ran on to the on coming transport bus. The Tribunal however found that the first respondent was entirely negligent.

3. The learned counsel for the appellant reiterated what his counterpart before the Tribunal has argued and he had nothing new to what has already been argued. On going through the materials available before me, I find the conclusion of the Tribunal in holding the first respondent's negligence as the cause of accident is in order and it does not call for any interference. It requires to be emphasised that in arriving at its conclusion the Tribunal re-created the entire accident with the help of the evidence as well as the rough sketch prepared by the Investigating Officer who was investigating into the criminal angle of the accident.

4. In the result, there is no merit in the appeal and the same is dismissed without costs. Consequently, connected miscellaneous petition is closed. The appellant/State Transport Corporation is directed to deposit the award amount, less if any already deposited, within four weeks from the date of receipt of a copy of this order, and on such deposit, the claimants are entitled to withdraw it forthwith. No costs.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

To:

1. The Motor Accident Claims Tribunal,
Motor Accident Claims Tribunal,
Principal District Judge i/c of I Additional District Judge,
Erode.
2. The Section Officer,
VR Section,
High Court, Madras.

+1 CC to Mr. V.S. Kesavan, Advocate sr 2733

+1 CC to Mr. D. Venkatachalam, Advcate sr 2773

C.M.A.No.2048 of 2012

SR(CO)
sp/23/2



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