

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.01.2017

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.3341 of 2006
and MP.No.1 of 2006

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kovai Division - II,
Chennimalai Road,
Erode.

...Appellant/II Respondent

Vs.

1.A.Kalimuthu @ Kalimuthan
2.Kaliyammal
3.S.Rathinasamy
4.S.Pandian @ Pandiselvam

5.Oriental Insurance Company Ltd.,
A.A.Complex, Ist Floor,
Kumaran Road,
Tiruppur - 641 601.

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and award made in MCOP. No.176 of 2003 dated 31.12.2004 on the file of the Motor Accidents Claims Tribunal (Fast Track Court No.II), Additional District Judge, Gobichettipalayam.

For Appellant :No Appearance

For Respondents :Mr.Ma.Pa.Thangavel [for R1 & R2]
R3 - Given up

JUDGMENT

On 30.01.2017, there was no representation for the appellant. The matter however pertains to an accident that took place on 11.01.2002 in which a bus belonging to the appellant had hit the motorcycle from behind and

killed its pillion rider. Even today (31.01.2017), there was no representation for the appellant. However with the assistance of the counsel for the respondents 1 and 2, I decided to dispose of the matter on merits .

2. As indicated earlier, on 11.01.2002, the State Transport Corporation bus bearing registration No.TN35-N-0662 hit the motorcycle from behind and the pillion rider was killed. His parents approached the Tribunal with a claim of Rs.5,00,000/-, as against which, the Tribunal has passed an award for

Rs.2,99,000/- payable with interest at 7% interest per annum. The victim was twenty four year old at that relevant time and was working in a private concern as a machine operator at Tiruppur. Fixing the notional income of Rs.3,000/- per mensem and applying a multiplier of 17, the Tribunal determined the compensation towards loss of support to his parents at Rs.2,75,000/-.

3. On perusing the records, I find that the negligence attributed to the driver of the bus stand proved satisfactorily and this Court does not find any reason whatsoever to interfere with that finding. It shall not be forgotten that it is a case of hit by a bus from behind, and in the absence of proof of any latest mechanical defect in the vehicle, it must be held that the driver of the bus had all the opportunity to avoid this accident. And, no such mechanical defect was proved to have resulted in the accident.

4. I find no merit in the appeal and the same is dismissed with costs. The appellant is directed to deposit the amount awarded by the Tribunal, less any amount already deposited within a period of four weeks from the date of receipt of a copy of this order, upon which the claimants would be entitled to withdraw the same forthwith.

Sd/-

Assistant Registrar

//True Copy//

ds

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
(Fast Track Court No.II)
Additional District Court,
Gobichettipalayam.

2.The Section Officer,
VR Section,
High Court, Madras.

+1CC to Mr.Thangavel, Advocate Sr.No.6057

CMA.No.3341 of 2006

GJ(CO)
RS(26/04/2017)