



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2017

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THE HONOURABLE MRS. JUSTICE J.NISHA BANU

C.M.A (MD) No.1080 of 2016
and C.M.P. (MD) No.9734 of 2016

Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Nagercoil.

... Appellant/3rd respondent

Vs.

1.M.Subbulakshmi
2.M.Vijayakumar
3.Murugeswari
4.Shanthi

... Respondents 1 to 4/Petitioners 1 to 4

5.Baskaran

... 5th respondent/ 1st respondent

6.The Managing Director,
Tamil Nadu State Transport Corporation,
Bye-Pass Road,
Madurai - 625 010.

... 6th Respondent/2nd Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree made in M.C.O.P.No.17 of 2011 dated 26.11.2015 on the file of the Motor Accident Claims Tribunal/Sub Court, Kovilpatti.

For Appellant : Mr.P.Prabhakaran

For R-1 to R-4 : Mr.G.Karnan

For R5 & R6 : Given Up

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation against the award made in M.C.O.P.No.17 of 2011 dated 26.11.2015 on the file of the Motor Accident Claims Tribunal/Sub Court, Kovilpatti.

2. It is a case of fatal accident that took place on 19.11.2010 at about 8.30 a.m, at Periya Odaipatti National Highways Road, in which, the driver of the Polero Car bearing



Registration TN-58-N-1813, which is insured with the appellant-Insurance Company, drove the vehicle in a rash and negligent manner and dashed against the TVS 50 driven by the deceased and caused the death.

3. The claimants filed an application in M.C.O.P.No.17 of 2011 on the file of the Motor Accident Claims Tribunal, Sub Court, Kovilpatti, seeking compensation.

4. Before the Tribunal, P.W.1 was examined and marked seven documents as Ex.P.1 to Ex.P.7. On the side of respondents, R.W.1 was examined and no documentary evidence was marked.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimants and also on appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the appellant Transport Corporation and directed the appellant/Transport Corporation to pay a sum of Rs.7,25,000/-, as compensation.

6. The learned counsel appearing for the appellant/Transport Corporation would mainly argue on liability and quantum.

7. Heard the learned counsel appearing on both sides and perused the materials available on record.

8. As far as liability is concerned, on the basis of evidence of P.W.1 and Exs.P1, Ex.P.3 and Ex.P.6 only, the Tribunal has rightly fixed the liability on the driver of the appellant. As far as quantum is concerned, the amounts awarded under all the heads are just and reasonable and therefore, there is no infirmity in the award passed by the Tribunal and the same does not require interference at the hands of this Court.

9. The learned counsel for the appellant would submit that the claimants have restricted the claim at Rs.5 lakhs and the Tribunal has awarded Rs.7,25,000/-. A perusal of record would show that the court fee has already been paid by the claimants for the enhanced compensation.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the award made in M.C.O.P.No.17 of 2011 dated 26.11.2015 on the file of the Motor Accident Claims Tribunal/Sub Court, Kovilpatti. is hereby confirmed. The appellant/Transport Corporation is directed to deposit the entire award amount with accrued interests and costs, within a period of six weeks from the date of the order. In the event of a copy of this order, if not already deposited and on such deposit being made, the respondents 1 to 4/claimants 1 to 4 are permitted to withdraw their respective shares as



apportioned by the Tribunal, with proportionate interests and costs. No Costs. Consequently, connected C.M.P.(MD)No.9734 of 2017 is closed.

Sd/-

Assistant Registrar (CS-II)

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/True copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Kovilpatti.

+1 cc to Mr.P.Prabhakaran , Advocate in SR.No. 68918

+1 cc to Mr.G.Karnan , Advocate in SR.No. 68877

CM

AE/JC/SAR1/30.08.2017/3P/4C

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and

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