



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.1124 of 2015

The Managing Director,
State Express Transport Corporation Ltd.,
Pallavan Salai,
Chennai-2.

... Appellant/Respondent

Vs.

1.Uma
2.Pratheep
3.Atchaya
4.Rajee
5.Rukkumani

... Respondents/Petitioners

(Third respondent declared as major
vide Court Order dated 09.02.2016
made in M.P.(MD)No.5 of 2015 in
CMA(MD)No.1124 of 2015)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree made in M.C.O.P.No.228 of 2013 dated 16.04.2014 on the file of the Motor Accident Claims Tribunal/Special District Court, Tiruchirappalli.

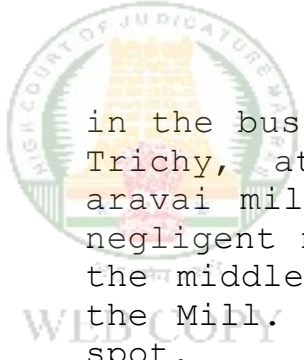
For Appellant	: Mr.P.Prabhakaran
For Respondents	: Mr.S.M.Mohan Gandhi

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/State Express Transport Corporation against the award made in M.C.O.P.No.228 of 2013 dated 16.04.2014 on the file of the Motor Accident Claims Tribunal/Special District Court, Tiruchirappalli.

2. It is a case of fatal accident, which took place on 22.05.2011 at about 05.15 hours at Madurai to Tiruchi four way road, Thumbappatti Bridge near Chettiyyar Aravai Mill, Melur Taluk, Madurai.

3. It is the case of the claimants before the Tribunal that on the date of accident, when the deceased was working as a Conductor



in the bus bearing Registration No.TN-01-N-7327 from Trivandrum to Trichy, at Thumbappatti Village Bridge in front of chettiyar aravai mill, the bus was driven by the bus driver in a rash and negligent manner and as a result of which, the bus dashed against the middle wall of the road, E.B.Post and the compound wall of the Mill. In the said accident, the said Venugopal died on the spot.

4. The claimants filed an application in M.C.O.P.No.228 of 2013 on the file of the Motor Accident Claims Tribunal/Special District Court, Tiruchirappalli, seeking compensation.

5. Before the Tribunal, on the side of the claimants three witnesses were examined as P.Ws.1 to 3 and nine documents were marked as Exs.P1 to P9. On the side of the Transport Corporation, one witness was examined as R.W.1 and no document was marked on their side.

6.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments advanced on either side and also appreciating the evidences on record, held that the accident occurred only due to the rash and negligent driving of the driver of the appellant/Transport Corporation and therefore, directed the appellant to pay a sum of Rs.26,94,842/- as a total compensation.

7. Against which, the appellant/Transport Corporation has filed this present appeal challenging the liability as well as quantum of compensation awarded by the Tribunal.

8.Though various grounds have been raised in the grounds of appeal, at the time of making arguments, the learned counsel for the appellant restricted his arguments only to the question of quantum alone and submitted that while awarding compensation for loss of income, the Tribunal erred in deducting 1/4th income instead of 1/3rd income towards personal expenditure and the future prospects fixed by the Tribunal at 30% is also on higher side and the compensation awarded under the others heads are also on higher side and therefore, the award passed by the Tribunal warrants interference at the hands of this Court.

9. Per contra, the learned counsel appearing for the respondents contended that as per documents produced on the side of the claimants only the Tribunal fixed the monthly income of the deceased and also considering the age of the deceased at 49 years old, the Tribunal added 30% amount towards future prospects and also after considering the number of family members, the Tribunal deducted 1/4th amount towards personal expenditure and therefore, the compensation awarded by the Tribunal does not warrant interference at the hands of this Court.



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

11. A perusal of the award passed by the Tribunal clearly shows that the Tribunal has discussed in detail and fixed the income and awarded just and reasonable compensation 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.

12. In the result, this Civil Miscellaneous Appeal stands dismissed and the award dated 16.04.2014 passed in M.C.O.P.No.228 of 2013 on the file of the Motor Accident Claims Tribunal/Special District Court, Tiruchirappalli, is hereby confirmed. The appellant/Transport Corporation is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, with proportionate interests and costs, without filing any formal application before the Tribunal. No Costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To,

1. The Special District Judge,
Motor Accident Claims Tribunal/
Special District Court,
Tiruchirappalli.
- 2 The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.Prabhakaran, Advocate Sr.No.74852
+1cc to Mr.S.M.Mohan Gandhi, Advocate Sr.No.75137

PM

VB/SV/SAR1/21/09/2017/3P/5C

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