



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.M.A. (MD) No. 1125 of 2015

and

M.P. (MD) No. 3 of 2015

The Tamil Nadu State Transport Corporation,
Kumbakonam Limited,
Represented by its Managing Director.

... Appellant / 1st respondent

Vs

1. Sarbunnisha
2. Minor Faisal Mohamed
3. Minor Mohamed Yasir
(Minor Respondents 2 & 3 are rep. By
their mother and natural guardian
the 1st Respondent Sarbunnisha)

4. Fathima Beevi

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to set aside the judgment and decree made in M.C.O.P.No.156 of 2014 dated 26.11.2014 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Thanjavur at Kumbakonam.

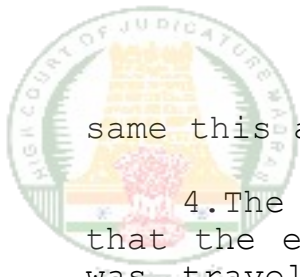
For Appellant : Mr.P.Prabhakaran
For Respondents : Mr.S.RajaPrabu

JUDGMENT

Heard the learned counsel on either side.

2. The appellant / Transport Corporation has filed this Civil Miscellaneous Appeal questioning the impugned award dated 26.11.2014 made in M.C.O.P.No.156 of 2014 passed by the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Thanjavur, on the ground of liability as well as quantum.

3. The deceased was travelling as a passenger in the bus belonging to the appellant / Transport Corporation in Aadudurai to Kumbakonam route on 17.08.2012 at about 3.30 p.m. When the bus was negotiating a turning, the deceased namely, Mujibir Rahman fell down and suffered severe injuries and he died as a result. The Tribunal awarded a sum of Rs.18,23,840/- as compensation. Questioning the



same this appeal has been filed.

4.The learned counsel appearing for the appellant would contend that the evidence on record would show that the deceased obviously was travelling on the footboard and that the claimant lost his balance and fell down.

5.The learned counsel appearing for the claimant would contend that if the driver had driven the bus carefully, the accident in question would not have occurred.

6.This Court can easily come to the conclusion that the deceased had travelled on the front footboard without holding the iron bar properly and that when the bus turned, he lost his balance. Therefore, the deceased is also responsible for the accident and hence, the contributory negligence has to be fixed at 10% on the deceased.

7.The deceased was working as a Salesman in Kaveri Store. The employer of the deceased, Baseer Mohamed, was examined as P.W.3. The deceased was paid a sum of Rs.7,500/- per month.

8.I am of the view that the Tribunal was justified in calculating the monthly salary at Rs.7,500/-. The deceased was aged about 36 years and therefore, the future prospects will have to be added at 40%. Therefore, the monthly income of the deceased is taken as Rs.10,500/-. The number of dependents is 4 and hence, one fourth deduction has to be made. Therefore, the pecuniary loss for the family will be a sum of Rs.14,17,500/-. For loss of consortium and loss of estate and loss of love and affection, a sum of Rs.1,60,000/- can be awarded. For funeral expenses, a sum of Rs.15,000/- can be awarded. Thus, the total compensation payable to the claimants quantified at Rs.15,92,500/-

9.The appellant / Transport corporation is directed to deposit Rs.15,92,500/- with interest at the rate of 7.5% per annum, from the date of petition till the date of realization and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimants are entitled to withdraw the it share as apportioned by Tribunal by filing proper application before the Tribunal, less the amount already withdrawn by them, if any.

10. This Civil Miscellaneous Appeal is partly allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.side)

/ True Copy /



To

1. The Chief Judicial Magistrate,
Motor accident claims Tribunal,
Thanjavur at Kumbakonam.

2. The Record Keeper, V.R. Section
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 88997

SMI

TE/KKR/SAR-4 : 07/03/2018 : 3P/5C

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