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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.1228 of 2014 and
M.P. (MD)No.2 of 2014 &
C.M.A(MD)No.4 of 2015

C.M.A(MD)No.1228 of 2014:

The Managing Director,
Tamil Nadu State Transport Corporation
Rep.by its Branch Manager,
Kumbakonam Division,
Thanjavur.

... Appellant/Respondent

Vs.

1.Amsavalli
2.Subramaniyan

... Respondents/Petitioners

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of M.V. Act,1988, against the judgment and decree made in M.C.O.P.No.1212 of 2012 dated 08.11.2013 on the file of the Motor Accident Claims Tribunal / Special District Court, Thanjavur.

For Appellant : Mr.P.Prabhakaran
For Respondents : Mr.S.Raja Prabhu

C.M.A(MD)No.4 of 2015:

1.Amsavalli
2.Subramaniyan

... Appellants/Claimants

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Rep.by its Branch Manager,
Kumbakonam Region,
Thanjavur.

... Respondent/Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of M.V. Act,1988, against the judgment and decree made in M.C.O.P.No.1212 of 2012 dated 08.11.2013 the file of the Motor Accident C Tribunal / Special District Court, Thanjavur.

For Appellants : Mr.S.Raja Prabhu
For Respondent : Mr.P.Prabhakaran

**COMMON JUDGMENT**

The appeal in CMA(MD)No.1228 of 2014, has been preferred by the Transport Corporation against the award of a sum of Rs.2,65,000/- for the claimants, who are the parents of the deceased.

2.Both the appeals arise out of the same Judgment and therefore, both the appeals are disposed of by this common Judgement.

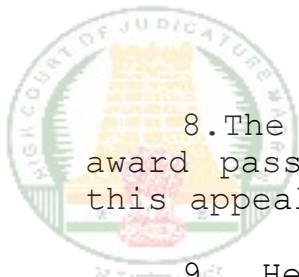
3.It is the specific case of the claimant that on 07.08.2012, at about 04.00 p.m., while the deceased was boarding in a Passenger Bus belonging to Tamil Nadu State Transport Corporation bearing registration No.TN 49 N 1784 to his native village near Kantharvakottai, accompanied by his uncle, the driver of the respondent bus carelessly and negligently started the bus in an utter rash and negligent manner without waiting for the petitioner to get inside completely, as a result of that, this deceased was suddenly slipped from steps and stuck under the rear wheels of same bus. On noticing the bus starting from the bus stop before his nephew getting inside completely, deceased's uncle Mr.Arumugam shouted for help. But in spite of his pleadings the driver of the first respondent was very negligent and drove the bus in such a way that this petitioner sustained grievous injuries all over his body and head. He was immediately rushed to Thanjavur Medical College Hospital for treatment where he was immediately rushed to Thanjavur Medical College Hospital for treatment where he was given first aid and after that admitted in the same hospital as in-patient for further treatment. But subsequently he succumbed to the grievous injuries the next day early morning and expired.

4.The claimant has also filed CMA(MD)No.04 of 2015 against the award with regard to the quantum.

5.Before the Tribunal, on the side of the petitioners, P.Ws.1 & 2 were examined and Exs.P1 to P8 were marked. On the side of the respondent, R.W.1 was examined and no document was marked.

6.The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimants and also 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 and the fifth respondent to pay a sum of Rs.2,65,000/-, as compensation. Against which, the appellant/Transport Corporation has filed C.M.A.(MD)No.1228 of 2014.

7.It is the submission of the learned counsel appearing for the appellant that the award of the Tribunal is on the higher side.



8.The learned counsel for the Claimants submitted that the award passed by the Tribunal deserves no interference and hence, this appeal filed by the Insurance Company is to be dismissed.

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

10.Considering the facts and circumstances of the case, it is just and proper to fix Rs.30,000/- as his annual income. If 18 multiplier is adopted, it comes to Rs.5,40,000/-. Regarding loss of love and affection a sum of Rs.25,000/- and Rs.5,000/- for funeral expenses; Rs.1,00,000/- for pain and sufferings, are awarded.

11.Therefore, the award of the Tribunal is enhanced to Rs.6,70,000/- from Rs.2,65,000/- with interest at the rate of 7.5% from the date of petition till the date of realization.

12.In the result, the CMA(MD)No.1228 of 2014 filed by the Transport Corporation is dismissed. CMA(MD)No.04 of 2015 filed by the claimants is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

13.The appellant/Transport Corporation is directed to deposit the entire award amount with accrued interests and costs, within a period of four 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 share as apportioned by the Tribunal, with accrued interests and costs.

14.The appellants/claimants are directed to pay the additional Court fee, if any, within a period of two weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Special District Judge/Motor accident claims Tribunal,
Thanjavur.

2. The Branch Manager,
Managing Director,
Tamil Nadu State Transport Corporation
Kumbakonam Division,
Thanjavur.



3. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 67441
+ 1 CC TO Mr.S.RAJAPRABU, ADVOCATE IN SR No. 67746

RJ2

TE/SKN-RSK/SAR-II : 16/08/2017 : 4P/6C

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