



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2017

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A(MD)No.308 of 2017

and

C.M.P(MD)No.3630 of 2017

Tamil Nadu State Transport Corporation Limited,
through its Managing Director,
Ranithottam, Nagercoil,
Nagercoil, Agastheeswaram Taluk,
Kanyakumari District.

.. Appellant/Second Respondent

-Vs-

1.Sujatha
2.Rajesh Kumar
3.Ajankumar

... Respondents 1 to 3/Petitioners

4.Selvam

... 4th Respondent/Ist Respondent

(4th respondent, driver of the appellant was given up)

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.5 of 2015, dated 27.08.2015, on the file of the Motor Accident Claims Tribunal(Chief Judicial Magistrate), Nagercoil.

For Appellant : M/s.P.Prabhakaran

For Respondents : M/s.R.Jayaraj
1 to 3

JUDGMENT

The Transport Corporation which has suffered an award for the death of one Appukuttan in a Motor accident, is the appellant.

2.It is not disputed that the deceased Appukuttan, was employed as a Sanitary Worker in Kanyakumari Town Panchayat and was drawing a monthly salary of Rs.11,662/-p.m. The accident occurred at 11.45 a.m on 01.07.2012 and the driver of the



Transport Corporation bus alleged to have lodged a complaint with the Police at 6.00 p.m on the same day stating that the said Appukkuttan was under the influence of alcohol, dashed against the median and fell on the left side of the bus, resulting in the accident. The complaint states that there were other eye-witness to the accident and they took the said Appukkuttan to the hospital. Those witnesses have not been examined. It is not in dispute that the Police have not registered any case against the said Appukkuttan. The legal representatives of the said Appukkuttan have lodged a complaint, by registered post only on the next day. One Sridhar, who was eye-witness to the accident has been examined as P.W.3. The Tribunal had relied upon the evidence of P.W.3 and concluded that the accident occurred due to the rash and negligent driving of the driver of the Transport Corporation bus. Though it is claimed in the complaint that the said Appukkuttan was under the influence of alcohol, post-mortem report which was marked as Ex.P2, does not contain any reference to alcohol.

3.Mr.P.Prabhakaran, learned counsel for the appellant would contend that since the First Information Report has been filed against Appukkuttan, the Tribunal was not right in rendering a finding regarding the rash and negligent driving of the driver of the Transport Corporation bus. The facts narrated above would demonstrate that a faint attempt has been made by the driver of the bus, after causing the accident, to blame the victim for the accident. As regards the quantum of compensation, the learned counsel would contend that though the monthly salary of the deceased is Rs.11,662/- the Tribunal has taken the monthly salary as 12,000/-. I do not find any illegality in the Tribunal's action in rounding of the salary of the deceased to the nearest thousand. There is no dispute regarding the multiplier adopted and age of the deceased. Hence I do not find any reason to interfere with the award of the Tribunal and thus the appeal fails.

4.Accordingly, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Civil Miscellaneous Petition is dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar



To

The Motor Accident Claims Tribunal
(Chief Judicial Magistrate),
Nagercoil.

+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 52439

VSN

TE/JC : 08/05/2017 : 3P/3C

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