



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.01.2017**

CORAM:

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. (MD) No. 67 of 2017 and

CMP (MD) .No. 613 of 2017

WEB COPY

The Managing Director,
Tamil Nadu State Transport Corporation
Tirunelveli.

: Appellant

vs.

1. Noorjahan

2. Sahul Hameed

3. Abu bucker Siddiq

: Respondent 1 to 3 / petitioners

4. Shunmugasundaram

: 4th respondent

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 24.07.2015 made in M.C.O.P.No.151 of 2013 on the file of the Motor Accident Claims Tribunal / Principal Sub Court, Tenkasi.

For Appellant

: Mr.P.Prabhakaran

For Respondents

: Mr.S.A.Ganapathy raman

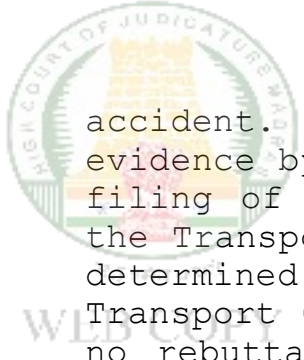
JUDGMENT

This Civil Miscellaneous appeal has been preferred by the appellant / Transport Corporation against the award of Rs.8,18,000/-, for the death of one Abdul Majith, aged about 55 years putting frankincense earning about Rs.6,000/- per month. In the accident occurred on 29.09.2012 when he was getting down from the bus through back door entry, the bus was suddenly started. Resulting in death of the said person. Therefore, claim petition.

2. The Tribunal found that the accident occurred because of negligent driving of the driver of the appellant / Transport Corporation and awarded a sum of Rs.8,18,000/-.

3. Heard Mr. P. Prabhakaran, learned counsel appearing for the appellant and Mr.S.A. Ganapathyraman, learned counsel appearing for the respondents 1 to 3/ claimants.

4. Though, it is contended by the learned counsel for the appellant, Transport Corporation that the deceased was suffering from epilepsy lost. Because of the epilepsy lost suffered by the deceased, when he was getting down from the bus, invited the



accident. However, the said contention was not proved by any evidence by the appellant. Therefore, the Tribunal taking note of filing of Ex.P1- First Information Report, against the driver of the Transport Corporation and PW.2 - eye witness evidence, rightly determined the negligence on the part of the driver of the Transport Corporation. Further, it has to be noted that there is no rebuttal evidence on the side of the driver of the Transport Corporation. Hence, the Tribunal rightly fixed the negligence on the driver of the Transport Corporation.

5. The Tribunal taking Rs.6,000/- as monthly income and deducting 1/3rd towards his personal expenses and adopting right multiplier 11 determined the loss of income as Rs.5,28,000/-; Rs.1,00,000/- towards loss of consortium to the first respondent; Rs.15,000/- towards transportation and Rs.25,000/- towards funeral expenses are confirmed.

6. Since the Tribunal has awarded a sum of Rs.1,00,000/- towards loss of consortium to the first respondent, a sum of Rs.50,000/- awarded by the Tribunal towards loss of love and affection is unwarranted. Therefore, a sum of Rs.1,50,000/- awarded by the Tribunal towards loss of love and affection is modified as Rs.75,000/- each to the respondents 2 and 3 / claimants.

7. Accordingly, the respondents 1 to 3 /claimants are entitled to a sum of Rs.8,18,000/- (Rupees Eight Lakhs and Eighteen Thousand only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs.

8. In the result,

(i) the Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed.

(ii) The respondents 1 to 3 / claimants are entitled to a sum of **Rs.8,18,000/-** (Rupees Eight Lakhs and Eighteen Thousand only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs;

(iii) The respondents 1 to 3 / claimants are entitled to their share as per the apportionment fixed by the Tribunal.

(iv) The respondents 1 to 3 / claimants are directed to submit their Personal Savings Bank Account Numbers along with the copies of their passbooks to the Tribunal **forthwith**;

(v) The appellant - Transport Corporation is directed to deposit the entire award amount along with accrued interest and costs, less the amount deposited, if any, to the credit of M.C.O.P.No.151 of 2013, by the Motor Accident Claims Tribunal - cum - Principal Sub Court, Tenkasi, within a period of **six weeks** from the date of receipt of a copy of this judgment;



(vi) On such deposit, the Tribunal is directed to transfer the respective share amount of the respondents 1 to 3 / claimants 1 to 3 directly to their Personal Savings Bank Account Numbers, as per the apportionment made by this Court, through RTGS/NEFT system, after getting their Account Details, within a period of **two weeks thereafter;**

(vii) In the facts and circumstances of the case, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1. The Principal Sub Judge,
The Motor Accident Claims Tribunal
Tenkasi.

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

+1 CC to M/s.S.A.GANAPATHYRAMAN, Advocate, SR No. 4171

+1 CC to M/s.P.PRABHAKARAN, Advocate, SR No. 3735

TRP/PGB

PSM/SKN/SAR2/24.08.2017/3P/5C

Judgment made in
C.M.A.(MD)No.67 of 2017 and
CMP(MD).No.613 of 2017
24.01.2017