



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :19.07.2017

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.638 of 2017
and
C.M.P. (MD)No.6634 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam

.. Appellant/Respondent

Vs.

1.A.Sahaya Mary
2.A.Arokia Selvi
3.A.Lawrence
4.A.Charles

.. Respondents/Petitioners

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.693 of 2015 dated 19.02.2016 on the file of the Motor Accident Claims Tribunal/II Additional District Court, Thanjavur.

For Appellant : Mr.P.Prabhakaran
For Respondents : Mr.N.Tamilmani

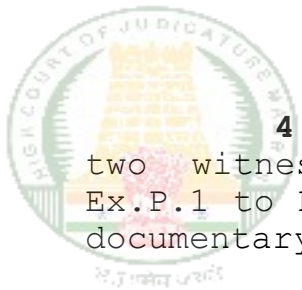
JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/ Transport Corporation Limited against the award of the Motor Accident Claims Tribunal/II Additional District Court, Thanjavur, made in M.C.O.P.No.693 of 2015 dated 19.02.2016.

2. The facts narrated in the claim petition are as follows:

On 05.03.2015 at 8.30 a.m at Othakadai Main Road, the petitioner fell down from the back way of the bus and it is alleged that the driver of the bus bearing Registration No.TN59-N-0781, belongs to the appellant/Transport Corporation, applied brake and due to that, the claimant sustained multiple grievous injuries and died on the spot.

3. The claimants filed an application in M.C.O.P.No.693 of 2015 dated 19.02.2016 on the file of the Motor Accident Claims Tribunal/II Additional District Court, Thanjavur, seeking compensation.



4. Before the Tribunal, the respondents/Claimants examined two witnesses as P.Ws.1 and 2 and marked 3 documents as Ex.P.1 to Ex.P.3. The appellant examined 1 witness as R.W.1 and no documentary evidence was marked.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimants and also on 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/Transport Corporation to pay a sum of Rs.10,32,300/-, as compensation.

6. Against which, the appellant/Transport Corporation has filed the present appeal on the ground that the Tribunal failed to fix the entire negligence on the deceased, who travelled on the back foot board of the appellant bus and the Tribunal has awarded excessive amount.

7. Heard the learned counsel appearing for the appellant/Transport Corporation and the learned counsel for the respondents/claimants.

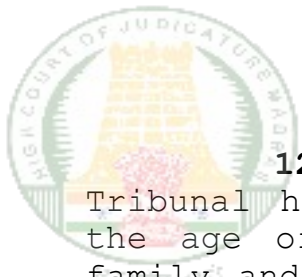
8. The learned counsel for the appellant/Transport Corporation would submit that the deceased, who travelled on the back foot board of the appellant bus without holding the iron bar, tried to get down from the slow moving bus and fell on the brick pieces on the road side and sustained injuries and thus voluntarily invited the accident and the deceased was solely responsible for the accident..

9. Per contra, the learned counsel for the claimants submitted that the Tribunal has carefully perused the oral and documentary evidence by the claimants and after elaborately discussing the various aspects only, the Tribunal has rightly come to the conclusion.

10. The learned counsel appearing for the claimants would draw the attention of this Court to the relevant portion of the finding of the Tribunal at paragraph No.4, which answered the questions as to whether the rash and negligent driving of the driver of the respondent caused accident:

"If really the bus was going on the very slow speed there is no chance for causing such a grievous head injury. The force of the driving of the vehicle caused the grievous injury. So the injuries caused only due to the motor vehicle and not on his own way"

11. After perusing the oral and documentary evidence, the Tribunal has rightly come to the conclusion that due to the negligent act of the respondent's driver and conductor the accident caused.



12. While calculating the quantum of compensation, the Tribunal has elaborately discussed in paragraph Nos.6 and 7 about the age of the deceased, income of the deceased, members of the family and relevant deduction has also been made and the Tribunal has rightly relied on various judgments and granted the total compensation of Rs.10,32,000/-

13. This Court finds no infirmity in the award passed by the Tribunal and the same does not require interference at the hands of this Court.

14. In the result, this Civil Miscellaneous Appeal is dismissed and the award of the Motor Accident Claims Tribunal/II Additional District Court, Thanjavur, made in M.C.O.P.No.693 of 2015 dated 19.02.2016, is hereby confirmed. 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 the award amount, with proportionate interests and costs without filing formal permission petition. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The II Additional District Judge,
Motor Accident Claims Tribunal,
Thanjavur.

+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 66187
+ 1 CC TO Mr.N.TAMILMANI, ADVOCATE IN SR No. 66349

CM

TE/SV-MMS/SAR-I : 26/09/2017 : 3P/4C

C.M.A (MD) No.638 of 2017
and C.M.P. (MD) No.6634 of 2017
19.07.2017