



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2017

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J. NISHA BANUC.M.A. (MD) No.258 of 2016
and CMP. (MD) No.3655 of 2016

The General Manager,
Tamil Nadu State Transport Corporation,
Thirumayam Road,
Pillai Thanneer Pandal,
Pudukkottai Town & District.

.. Appellant/1st Respondent**Vs.**

1.Aarayee
2.Manickam
3.Valli
4.Selvarani
5.R.D.Lakshmanan

.. 1st Respondent/1st Petitioner
.. 2nd Respondent/2nd Petitioner
.. 3rd Respondent/3rd Petitioner
.. 4th Respondent/4th Petitioner
.. 5th Respondent/2nd Respondent

6.The Branch Manager
National Insurance Company Ltd.,
T.S.No.4132, Keelaraja Veethi,
Pudukkottai Town & Taluk,
Pudukkottai District.

.. 6th Respondent/3rd Respondent

Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Award made in M.C.O.P.No.662 of 2012, dated 30.10.2015, on the file of the Principal District Court/Motor Accident Claims Tribunal, Pudukkottai.

For Appellant : Mr.D.Sivaraman
For R2 : Mr.N.Balakrishnan

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/State Transport Corporation against the Judgment and Award made in M.C.O.P.No.662 of 2012, dated 30.10.2015, on the file of the Principal District Court, Pudukkottai.

2. It is a case of fatal accident, which took place on 22.02.2012 at about 09.10 p.m. at Trichy to Pudukkottai Main Road. When the deceased was travelling in Tato Sumo Car bearing Registration No.TN-22-AF-5128 near Keeranur Mohambigai Engineering College, the bus belonging to the Transport Corporation bearing



Registration No. TN-55-N-0630 came from the opposite side and dashed against the Tata Sumo Car and caused the death.

3. The claimants filed an application in M.C.O.P.No.662 of 2012 on the file of the Motor Accident Claims Tribunal, Principal District Court, Pudukkottai, seeking compensation.

4. Before the Tribunal, on the side of the claimants three witnesses viz., as P.Ws.1 to P.W.3 were examined and twelve documents viz., as Exs.P-1 to P-12 were marked. On the side of the appellant/Transport Corporation, one witness was examined as R.W.1 and no document was marked.

5. The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the appellant and claimants and also on appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the bus belonging to the appellant/Transport Corporation and directed the appellant to pay a sum of Rs.16,33,000/-, as compensation.

6. Against which, the appellant/Transport Corporation has filed this present appeal challenging liability as well as quantum of compensation awarded by the Tribunal.

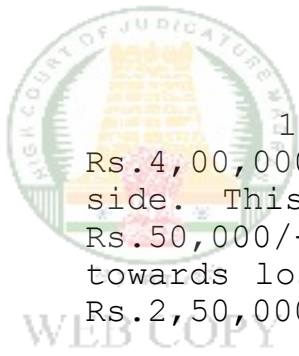
7. Heard the learned counsel appearing on both sides and perused the materials available on record.

8. The learned counsel for the second respondent submitted that the Tribunal has awarded a just and reasonable amount and there is no interference required.

9. The learned counsel appearing for the appellant Transport Corporation would submit that the accident occurred only due to the negligence of the driver of the Tata Sumo, in which the deceased was travelling and therefore, the appellant is not liable to pay compensation.

10. In paragraph No.14, the Tribunal has observed that the driver of the Transport Corporation has not been examined and charge sheet has been filed against the driver and the case is pending before the concerned Court. Considering the evidence of R.W.1 and P.Ws. 1 and 2 only, the Tribunal has rightly come to the conclusion that the driver of the Transport Corporation is cause for the accident. In the considered opinion of this Court, there is no infirmity in the said finding with regard to liability.

11. As far as quantum of compensation is concerned, according to the learned counsel for the appellant, the Tribunal has granted a sum of Rs.2,00,000/- towards loss of estate, which is not necessary. Since the amount of Rs.10,08,000/- towards loss of income is granted, the amount granted towards loss of estate is deleted.



12. According to the appellant, the Tribunal has granted Rs.4,00,000/- towards loss of love and affection, which is higher side. This Court grants Rs.1,00,000/- to the first claimant and Rs.50,000/- is granted to other three claimants. Hence, the amount towards loss of love and affection is reduced from Rs.4,00,000/- to Rs.2,50,000/-.

13. The Tribunal has not awarded amount towards transportation. This Court grants Rs.25,000/- towards transportation. Totally, Rs. 13,08,000/- is granted as compensation.

14. This Court modifies the award of the Tribunal by reducing the compensation as under:-

S.No	Description	By Tribunal (Rs)	By this Court (Rs)	Result
1.	For loss of income	10,08,000	10,08,000	confirmed
2.	Loss of estate	2,00,000	-	deleted
3.	Loss of love and affection	4,00,000	2,50,000	reduced
4.	For Transportation	-	25,000	granted
5.	For funeral expenses	25,000	25,000	confirmed
	Total	Rs.16,33,000	13,08,000	By reducing Rs.3,25,000/-

15. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed, reducing the award of the Tribunal from **Rs.16,33,000/-** (Rupees sixteen lakhs and thirty three thousand only) to a sum of **Rs.13,08,000/-** (Rupees thirteen lakhs and eight 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. No costs. Consequently, C.M.P.No. 3655 of 2016 is closed.

(ii) The appellant Transport Corporation is directed to deposit the award amount with accrued interests and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw their respective shares with accrued interests and costs as apportioned by the Tribunal, without filing any formal application before the Tribunal.

Sd/-

Assistant Registrar (CS-I)



To

1. The Motor Accident Claims Tribunal,
Principal District Court, Pudukkottai.

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

+ 1 CC TO Mr.D.SIVARAMAN, ADVOCATE IN SR No. 77572

CM

TE/MR-KKR/SAR-I : 04/10/2017 : 4P/4C

C.M.A.(MD)No.258 of 2016 and
CMP.(MD)No.3655 of 2016
08.09.2017