



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA(MD)No.30 of 2016
and
CMP(MD)No.508 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Division 3rd Maruthupathy
Managiri Road,
Karaikudi

... Appellant/Respondent.

Vs.

1.Mangala Sundari
2.Minor Kapila Priya
3.Minor Jeya Prakash
4.Minor Raja Prabha
5.Karuppayee

(Minors 2, 3 and 4 are rep.through
their mother and next friend,
Mangala Sundari, 1st respondent)

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 04.03.2014 made in MCOP.No.26 of 2012 on the file of the Motor Accident Claims Tribunal / Additional District and Sessions Court, Ramanathapuram.

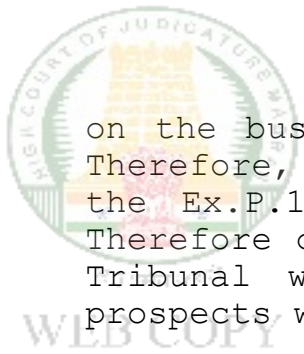
For Appellant : Mr.D.Sivaraman
For Respondents : Mr.C.Masilamani

JUDGMENT

The Transport Corporation has filed this appeal questioning the impugned award on the ground of negligence as well as quantum.

2.One Sithiralingam was riding a two wheeler on 30.09.2010 when the bus belonging to the appellant transport corporation hit him. He died as a result. Crime No.79 of 2010 was registered on the file of the Sikkal Police Station, Ramanathapuram District. The Tribunal fixed the negligence on the driver employed by the appellant corporation. It awarded a sum of Rs.14,74,780/- with interest. The Transport corporation has filed this appeal contending that negligence must have been fastened on the deceased.

3.But, it is seen that the driver of the offending bus was not examined. Since the bus driver was not examined, I am of the view that the Tribunal was justified in fastening the entire negligence



on the bus driver. The deceased was a Gang Mazdoor in Highways. Therefore, the monthly salary was rightly fixed based on the Ex.P.10 salary certificate. There were five dependents. Therefore only one fourth deduction should have been made. But the Tribunal wrongly made one fifth deduction. Since the future prospects was not given, the same can be offset.

4.I am of the view that the sum of Rs.14,74,780/- awarded to the claimants as compensation, who are five in number cannot be said to be excessive. It is seen that the deceased died leaving behind three minor children. By no stretch of imagination the award amount can be said to be excessive. The award dated 04.03.2014 made in MCOP.No.26 of 2012 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Court, Ramanathapuram is confirmed.

5.The appellant transport corporation is directed to deposit the entire compensation amount, with interest at the rate of 7.5% per annum from the date of petition till the date of realization and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the first and fifth respondents are entitled to withdraw their share as apportioned by the Tribunal, by filing proper application, less the amount already withdrawn by them, if any. The share of the minor claimants shall be deposited in any one of the nationalised bank and the natural guardian, their mother is permitted to withdraw the interest once in three months directly from the bank, till the minors attain majority.

6.This Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

The Additional District and Sessions Judge /
Motor Accident Claims Tribunal, Ramanathapuram.

Copy to:

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai(2 copies)
+1CC to Mr.C.Masilamani, Advocate, SR.No. 93888
+1CC to Mr.D.Sivaraman, Advocate, SR.No. 93640

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