



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.586 of 2014

and

M.P(MD) No.1 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam ... Appellant / Respondent
Vs.

1.Selvi

2.Minor Thanalakshmi
(The 2nd respondent is minor rep by her mother
and guardian the 1st respondent)

3.Leela

4.Rajadurai ...Respondents/Petitioners

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.377 of 2013 dated 28.01.2014 on the file of the Motor Accident Claims Tribunal/Special District Court, Thanjavur.

For Appellants : Mr.P.Prabhakaran

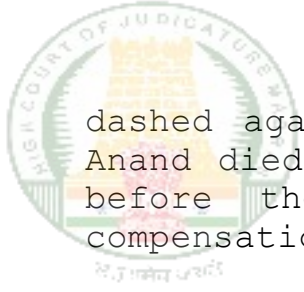
For R-1 to R-4 : Mr.G.Karnan

J U D G M E N T

The appeal is directed against the judgment, dated 28.01.2014 passed in M.C.O.P.No.377 of 2013, by the Motor Accident Claims Tribunal/Special District Court, Thanjavur.

2.The case of the claimant in the petition is briefly as follows:

On 18.10.2012, the deceased Anand was riding a motor cycle bearing registration No.TN 49 R 7489 along with his wife towards Kumbakonam, that time, a bus bearing registration No.T.N 68 N 0371 belonging to the first respondent, driven by its driver in a rash and negligent manner, came backside of the motor cycle and



dashed against the motor cycle, as a result of which, the said Anand died. So, the legal heirs of the deceased filed a petition before the Tribunal claiming a sum of Rs.10,00,000/- as compensation.

3. Before the Tribunal, on the side of the petitioner, P.Ws.1 and 2 were examined and Exs.P1 to P5 were marked. On the side of the respondent R.W.1 was examined and the respondent has not chosen to adduce any documentary evidence.

4. On a careful consideration of the evidence on record, the learned Tribunal has awarded a sum of Rs.8,10,000/- as compensation with interest at the rate of 7.5%. Challenging this award, the appeal has been filed by the appellant/Transport Corporation.

5. The points for determination in this appeal are as follows:-

(i) Whether the driver of the appellant has driven the vehicle in a rash and negligent manner?

(ii) What is the just compensation?

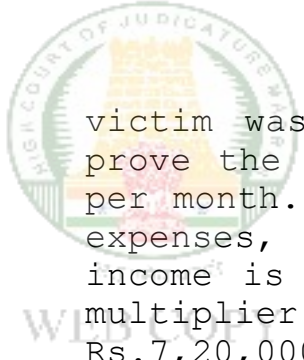
6. Point No.(i):-

(i) It is the claim of the appellant that the deceased was responsible for the accident. The accident was spoken by P.W.2, who was standing in the Thanjavur-Kumbakonam road to board a bus. In his evidence he has stated that the bus was driven in a rash and negligent manner. The complaint was also given by P.W.1, the wife of the deceased. Ex.P1 is the copy of the First Information Report, which was registered in Crime No.246 of 2012 by the Thanjavur Town Police Station. Admittedly, the complaint was not given by the driver of the bus. R.W.1 is the driver of the bus. It is the duty of the driver of the bus to give police complaint, but he did not do so. In his evidence, he had stated that he is not responsible for the accident and that the deceased is the only responsible for the accident. But there is no evidence to prove the same. Moreover, the failure of the driver to give police complaint is to be taken into consideration. After considering the evidence of P.Ws.1 and 2 and R.W.1, the Tribunal has arrived at a conclusion that the driver of the bus was responsible for the accident.

(iii) On a careful consideration of the evidence available on record and the Judgment of the Tribunal, I am of the view that there is no reason to interfere with the above finding of the Tribunal. This point is answered accordingly.

7. Point No.(ii):-

<https://hcservices.echugovt.in> The deceased was doing building works (centering work). At the time of accident, he was aged 36 years. The wife of the deceased was examined as P.W.1. She has stated in her evidence that the



victim was earning Rs.10,000/- p.m. As there is no evidence to prove the same, the Tribunal has fixed his income as Rs.6,000/- per month. Out of which, if 1/3 is deducted towards his personal expenses, it comes to Rs.4,000/- and accordingly, his annual income is fixed at Rs.48,000/-. For the age of 36, the proper multiplier is 15. If 15 multiplier is adopted, it comes to Rs.7,20,000/- (Rs.48,000 x 15), which is correct and so, it is confirmed. In other heads also, the award of the Tribunal is confirmed.

8.The appellant / Transport Corporation is directed to deposit the entire award amount, less the amount already deposited, with accrued interest at the rate of 7.5% per annum, from the date of petition till the date of realization, within a period of two weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit being made, the claimants are entitled to withdraw the award amount with proportionate interest and costs, as apportioned by the Tribunal, without filing any formal petition before the Court below.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To,

The Special District Judge
The Motor Accident Claims Tribunal/Special District Court,
Thanjavur.

Copy to:-

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

+One cc to Mr.P.Prabhakaran, Advocate, SR.No.70860

+One cc to Mr.G.Karnan, Advocate, SR.No.71092

rj2

RL/5C/3P/KK/SAR2/28/8/2017