



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA(MD)No.523 of 2016

and

CMP(MD)No.6445 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
New Junction Road,
Kumbakonam.

... Appellant/Respondent

-VS-

1.Sumathi
2.Shanmuganathan

...Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 04.01.2016 passed in MCOP.No.1109 of 2014 on the file of the Special District Court / Motor Accident Claims Tribunal, Thanjavur.

For Appellant : Mr.D.Sivaraman

For Respondents : No appearance.

JUDGMENT

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

2.The bus belonging to the appellant corporation had grazed the two wheeler bearing Registration No.TN 49 AE 2004 on 01.12.2008 when the bus was going in the Vilangudi - Thiruvaiyaru main road. The rider of the two wheeler lost his balance and fell down. The rider suffered only minor injuries. The pillion rider was not wearing Helmet. Therefore, as a result of the head injury suffered by him, he died.

3.I am of the view that if the pillion rider had been wearing a helmet, he would not have died in the accident in question. The case on hand once again illustrates the need for the driver as well as the pillion riders of the motor cycles to wear the protective headgear. The Tribunal awarded a sum of Rs.8,42,492/- as compensation since the deceased happened to be only a pillion rider. Even though there was a violation of the mandate set out in Section



129 of the Motor Vehicles Act, 1988, I am not inclined to fasten any negligence on him.

4.The Tribunal however erred in awarding interest at the rate of 9%. The same is reduced to 7.5%. In this case, the Tribunal awarded a sum of Rs.1,00,000/- under the head of loss of consortium to the wife. As per the recent decision of the Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and others, the loss of consortium to the wife should be Rs.40,000/-. Therefore, the compensation payable to the claimants will be Rs.8,02,492/-. The award dated 04.01.2016 passed in MCOP.No.1109 of 2014 on the file of the Special District Court / Motor Accident Claims Tribunal, Thanjavur is modified.

5.The appellant transport corporation is directed to deposit the sum of Rs.8,02,492/- with interest at the rate of 7.5% 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 claimants are entitled to withdraw the same, as apportioned by the Tribunal, by filing proper application, less the amount already withdrawn by them, if any.

6.Accordingly, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar(Lok Adalat/M&C)

/True copy/

Sub Assistant Registrar

To

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

Copy to :

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

+1cc to M/s.D.Sivaraman, Advocate, SR.No.93644.

CMA (MD) No.523 of 2016
and

CMP (MD) No.6445 of 2016
19.12.2017

s km

<https://hcservices.ecourts.gov.in/hcservices/>

RAM/KKR/SAR 3/05.06.2018/2P/5C