



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A(MD) No.893 of 2014
and
M.P.(MD).No.1 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam.

: Appellant/1st respondent

Vs.

1.Tamil Selvi
2.Minor Madhu Mitha
3.Minor Varsha
4.Minor Aayisha
5.Minor Kishore

: R1 to R5/Petitioners

Respondents 2 to 5 are minors
(Represented by their mother and
guardian, the 1st respondent)

6.Soundara Valli
7.Thankaian

: R6 and R7/R2 and R3

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree made in M.C.O.P.No.954 of 2012, dated 11.02.2014 on the file of the Motor Accidents Claims Tribunal / Special District Court, Thanjavur.

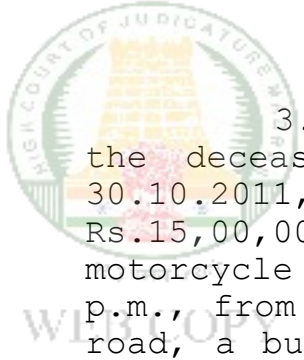
For Appellant : Mr.P.Prabhakaran
For R-1 to R-5 : Mr.S.Rajaprabhu
For R-6 to R-7 : No appearance

JUDGMENT

(Judgment of the Court was made by K.KALYANASUNDARAM,J.)

This appeal is directed against the award passed by the Motor Accident Claims Tribunal (Special District Court), Thanjavur, in M.C.O.P.No.954 of 2012 dated 11.02.2014.

2.Heard Mr.P.Prabhakaran, the learned counsel for the appellant and Mr.S.Rajaprabhu, learned counsel for the respondents



3. The brief facts of the case are that the legal-heirs of the deceased T.Raja, who died in a motor vehicle accident on 30.10.2011, filed a claim petition seeking compensation of Rs.15,00,000/- alleging that when the deceased was riding the motorcycle bearing registration No.TN-49-AD-7843, at about 10.45 p.m., from east to west direction in Thanjavur to Nagapattinam main road, a bus belongs to the appellant Transport Corporation bearing Registration No.TN-49-N-1933 came in a high speed and in a rash and negligent manner, hit against the motorcycle. In the accident, the deceased sustained grievous injuries and succumbed to the injuries on the same day.

4. The claim was opposed by the appellant Transport Corporation by contending that the driver of the bus, driving the bus in a careful manner, but the accident had taken place only due to the negligent of the deceased and prayed for dismissal of the claim petition.

5. The Tribunal, upon consideration of the oral and documentary evidence awarded compensation of Rs.15,49,128/- together with interest @ 7.5% p.a. Aggrieved over the award, the present appeal has been filed.

6. Before the Tribunal, the claimants examined PW2 George as an eye witness to the accident. In his evidence, he has stated that on 30.10.2011 at about 10.45 p.m., when he was standing near Thanjavur to Nagapattinam main road, he saw the bus hit against the Motorcycle. The deceased T.Raja sustained grievous injuries. Ex.P.1 First Information Report shows that a criminal case was registered against the driver of the bus. Exs.P.4 and P.5 are the reports of the Motor Vehicle Inspector. In our considered view, the tribunal, based on the evidence, has rightly come to the conclusion that the driver of the bus caused the accident.

7. Regarding quantum, PW1 has given evidence stating that her deceased husband was 35 years old at time of accident. In Ex.P2 postmortem report, the age of the deceased was mentioned as 35 years. PW3 Mohana Sundaram has deposed that the deceased was working as a line-man in Tamil Nadu Electricity Board and he was drawing a salary of Rs.10,813/- per month. Ex.C1 is the salary certificate. The tribunal, accepting the above evidence, fixed the monthly income of the deceased at Rs.10,813/-. After deducting 1/3rd towards his personal expenses, the tribunal has taken Rs.7,209/- as contribution to his family. The tribunal has applied multiplier '16' as per the decision in Sarla Verma's case and awarded Rs.13,84,128/- [Rs.7,209/- x 12 x 16] towards loss of income. In addition to that, the tribunal has awarded Rs.25,000/- to the first claimant towards loss of consortium, Rs.1,00,000/- to the claimants 2 to 5 towards love and affection, Rs.30,000/- to the parents of the deceased and Rs.10,000/- for funeral expenses. In total, the tribunal has awarded Rs.15,49,128/- along with interest @ 7.5% p.a. In our considered opinion of this Court, the compensation is reasonable and therefore, no interference is required.



8. In the result, this Civil Miscellaneous Petition is dismissed. The appellant Transport Corporation is directed to deposit the entire award amount along with interest and costs, within a period of eight weeks from the date of receipt of the judgment copy, less the amount already deposited if any. On such compliance, the claimants are permitted to withdraw the entire amount, as apportioned by the Tribunal. No costs. Consequently, connected M.P(MD)No.1 of 2014 is closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

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

COPY TO:

The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

+1cc to M/S.P.Prabhakaran, Advocate SR.No. 82228

C.M.A(MD) No.893 of 2014
10.10.2017

gsp/sm
JM/SV MMS/SAR 4/19.04.2018/3P/5C