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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.732 of 2015

and

M.P.(MD).No.2 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
New Junction Road,
Kumbakonam Town and Munsif.

... Appellant

Vs.

1.Angel
2.Minor Devanesan
3.Minor Devajani
(The respondents 2 and 3 are minors
represented by their mother and guardian
the 1st respondent)
4.Saraswathy
5.Muthukumar
6.The Manager (Law)
ICICI Lambord Insurance Company Limited,
140, Nungambakkam High Road,
Chottabai Centre,
Chennai and Munsif.

... Respondents

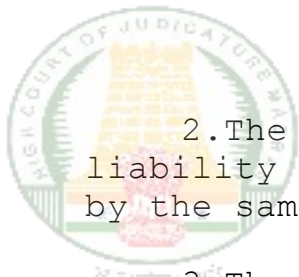
Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the judgment and decree dated 19.04.2013 made in M.C.O.P.No.126/2009 of the Motor Accidents Claims Tribunal/Additional District and Sessions Court-Special Court under Essential Commodities Act, Thanjavur.

For Appellant : Mr.P.Prabhakaran

For Respondents : Mr.S.Rajaprabu for R1 to R4
Mr.V.Muthu Kamatchi for R6
R5-No Appearance

JUDGMENT

<https://hcservices.ecourts.gov.in/hcservices/>
heard the learned counsel on either side.



2.The appellant Transport Corporation was saddled with 1/3rd liability to satisfy the award passed by the Tribunal. Aggrieved by the same, this appeal has been filed.

3.The learned counsel appearing for the appellant would contend that the entire negligence must have been fixed on the rider of the two-wheeler and that the appellant Corporation must have been exonerated. The Tribunal carefully considered the testimony adduced on either side. The deceased was travelling as a pillion rider. The rider of the two-wheeler attempted to overtake the bus. The Tribunal has taken a view that in such cases the driver of the bus must give signal appropriately. Assuming that the two-wheeler attempted to overtake without noticing or ignoring the driver's signal, the bus driver ought to have slowed down his vehicle. In the present case, the driver of the appellant Corporation did not do so and as a result there was a collision involving the three vehicles. That is why, the Tribunal held that negligence must be equally fastened on the driver of all the three vehicles. That is why the 1/3rd liability came to be fastened on the driver of the appellant Corporation. This conclusion is based on proper appreciation of the evidence available on record.

4.I find this inference to be perfectly reasonable. There is no justification in taking a different view. Coming to quantum, since no income proof was furnished, the Tribunal fixed the monthly income at Rs.7,500/-. Since their family comprised five members including the victim, 1/4th deduction was made. The deceased was aged 37 years at the time of accident. Therefore, applying multiplier, the pecuniary loss was arrived at Rs.10,12,500/-. The compensation awarded under other heads cannot be said to be excessive. In all the quantum of compensation awarded to the claimants is reasonable. There is no merit in this appeal. The award dated 19.04.2013 made in M.C.O.P.No.126/2009 of the Motor Accidents Claims Tribunal/Additional District and Sessions Court-Special Court under Essential Commodities Act, Thanjavur is confirmed.

5.The appellant/Transport Corporation, respondent Nos.5 and 6 are directed to deposit their respective share or 1/3rd in the entire compensation amount of Rs.10,64,500/- with 7.5% interest per annum from the date of petition till the date of deposit, less the amount already deposited, if any, before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. The share of the minor claimants 2 and 3 shall be deposited in any one of Nationalised Bank. The natural guardian, the First Appellant is permitted to withdraw the interest there from once in three months from the Bank. On such deposit, the claimants are entitled to withdraw the same, as apportioned by the Tribunal,



less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.

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

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Sd/-

Assistant Registrar (CS-II)

Sub Assistant Registrar

tsg

To

1.The Additional District and Sessions Judge-
Special Court under Essential Commodities Act,
Motor Accidents Claims Tribunal,
Thanjavur

2.The Record Keeper,
Madurai Bench of Madras High Court,
Madurai.

3.Mr.Muthukumar (5th Respondent)
S/o.Sakthivel,
No.1/97, Thiruvangoor,
Yegaperumaloor,
Aranthangi Taluk,
Pudukkottai District.

+1. C.C. to Mr.S.Rajaprabu, Advocate SR.No.85137

+1. C.C. to Mr.K.K.Ramakrishnan, Advocate SR.No.85331

+1. C.C. to Mr.P.Prabhakaran, Advocate SR.No.85065

**C.M.A. (MD) No.732 of 2015
and**

**M.P. (MD) .No.2 of 2015
02.11.2017**

PK/GT/SAR-1/02.01.2018 : 3P/7C