



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA(MD)No.920 of 2016

and

CMA(MD)No.1196 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Office at No.2, Trivandrum Road,
Vannarapettai,
Tirunelveli.

... Appellant in CMA(MD)No.920 of 2016/Respondent
&... Respondent in CMA(MD)No.1196 of 2017

Vs.

1. Antony Selvi

2. Minor Pushparenosha
(Minor is rep.through her mother,
next guardian, 1st respondent)

... Respondents in CMA(MD)No.920 of 2016/Petitioner
& Appellants in CMA(MD)No.1196 of 2017

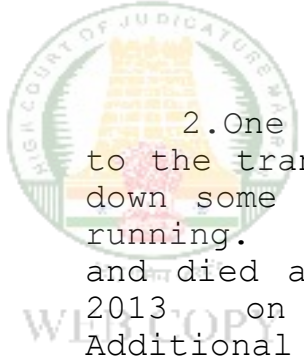
Prayer: Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.10.2015 made in MCOP.No.1421 of 2013 on the file of the Motor Accident Claims Tribunal, (II Additional District Judge), Tirunelveli.

For Appellant in
CMA(MD)No.920 of 2016 &
For Respondent in
CMA(MD)No.1196 of 2017 : Mr.P.Prabhakaran

For Respondents in
CMA(MD)No.920 of 2016 &
For Appellants in
CMA(MD)No.1196 of 2017 : Mr.T.Selvakumaran

JUDGMENT

The transport corporation has filed CMA(MD)No.920 of 2016 questioning the impugned award both on the grounds of negligence as well as the quantum. The claimants have filed CMA(MD)No.1196 of 2017 seeking enhancement of the compensation awarded to them.



2. One Rooban was travelling as a passenger in the bus belonging to the transport corporation on 23.10.2013. He appears to have got down some 100 meters prior to the bus stop when the bus was still running. He lost his balance and fell down and suffered injuries and died as a result. The claimants have filed MCOP.No.1421 of 2013 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Tirunelveli. The Tribunal awarded a sum of Rs.11,65,000/- as compensation with interest. Aggrieved by the same, the Transport corporation has filed CMA(MD)No.920 of 2016.

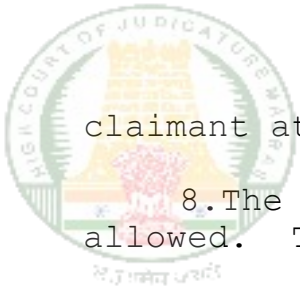
3. The learned standing counsel appearing for the transport corporation pointed out that in this case even though the F.I.R was registered, the same was closed by the police on the ground that the deceased was at fault. On the side of the transport corporation two witnesses were examined. The final report was marked as Ex.R1.

4.aA reading of the entire evidence on record would clearly show that the deceased jumped from the bus before it stopped. It was this led to his death. However, considering the facts and circumstances of the case, I am inclined to fasten contributory negligence to the tune of 10% on the deceased.

5. Coming to the quantum of compensation, it is seen that the deceased was aged 43 years. Therefore, the multiplier will be 14. No income proof was filed. Since the accident occurred in the year 2013, the monthly income can be taken as Rs.6,500/-. After adding 25% future prospects, the monthly income will be Rs.8125/-. Since there were two dependents, one third deduction has to be made. Therefore, applying the usual formula, the pecuniary loss to the family will be Rs.9,10,056/-. (5417x12x14). A sum of Rs.80,000/- can be awarded towards loss of consortium and a sum of Rs.30,000/- towards attender charges and funeral expenses. Thus, the total come to Rs.10,20,056/-.

6. Since 10% contributory negligence has been fastened on the deceased, the compensation payable to the claimants would come to Rs.9,18,050/-. It can be rounded off to Rs.9,18,000/-. The award dated 27.10.2015 made in MCOP.No.1421 of 2013 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Tirunelveli is modified.

7. The Tamil Nadu State Transport Corporation, Tirunelveli is directed to deposit the sum of Rs.9,18,000/- 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 judgment, less the amount already deposited, if any. On such deposit, the first claimant is entitled to withdraw her share as apportioned by the Tribunal, less the amount already withdrawn by her, if any. The share of the minor claimant shall be deposited in any one of the nationalized bank and the natural guardian, mother of the minor child is permitted to withdraw the interest once in three months directly from the bank, till the minor



claimant attains majority.

8. The appeal filed by the transport corporation is partly allowed. The appeal filed by the claimants is dismissed. No costs.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The II Additional District Judge,
Motor Accident Claims Tribunal,
Tirunelveli.
2. The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 2 CC TO Mr. P. PRABHAKARAN, ADVOCATE IN SR Nos. 94299 & 94579
+ 1 CC TO Mr. T. SELVAKUMARAN, ADVOCATE IN SR No. 94525

SKM

TE/SV-MMS/SAR-4 : 20/06/2018 : 3P/7C

CMA (MD) No. 920 of 2016 and
CMA (MD) No. 1196 of 2017
21.12.2017