BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A.(MD).No.926 of 2016
and
C.M.P(MD)Nos.8425 of 2016 and 3837 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam Division - II,
Periyamilaguparai,
Trichy - 1. ... Appellant/Respondent

Vs.

1.Sithi Sunaitha

2.Minor Asma Parveen
3.Minor Rijvana Parveen
(Minor respondents 2 and 3 are represented their mother and natural guardian - 1st Respondent.)

4.Asia Begam
5.Abdul Rasak ... Respondents/Petitioners

Prayer: Appeal filed under Section 173 of Motor Vehicle Act 1988, against the judgment and decree dated 07.07.2015 passed in M.C.O.P.No.2022 of 2013 on the file of the Motor Accidents Claims Tribunal - Special District Court, Tiruchirappalli.

For Appellant : Mr.P.Prabhakaran

For Respondents : Ms.T.Kokilavane
for Mr.C.Padma Raj for R.1 to R.4

No appearance for R.5

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JUDGMENT

The Transport Corporation is the appellant. The claim petition was filed seeking compensation for the death of one Burkanudeen, who was working as a Professor in the Department of Chemistry at Jamal Mohammed College, Trichy. The said Burkanudeen died in the accident that took place on 28.12.2012. It is claimed that the bus owned by the appellant-Transport Corporation was driven in a rash and negligent manner and it dashed against the deceased who was riding a two wheeler from behind. Due to the impact, the deceased was thrown out of the vehicle and rear left wheel of the bus crushed his head, resulting in his death on the spot. The claimants are the wife, parents and minor children of the deceased.

2. The appellant-Transport Corporation resisted the claim contending that the accident occurred due to the negligence of the deceased and not due to the rash and negligent driving of the appellant-Transport Corporation bus.

3. The Tribunal on the basis of the evidence on record as well as the F.I.R., came to the conclusion that the accident occurred due to the rash and negligent driving of the bus by its driver. The claim that the deceased lost balance while attempting to overtake the vehicle and fell down, was rejected by the Tribunal on the ground that the documents, namely, F.I.R and Observation Mahazar did not support the case of the appellant-Transport Corporation. Hence, the Tribunal concluded that the accident was caused due to the rash and negligent driving of the bus by its driver.

4. Mr.P.Prabhakaran, learned Counsel for the appellant-Transport Corporation would contend that the evidence of the driver should be considered.

5. I am unable to countenance the said contention in view of the documentary evidence as well as clear finding of the Tribunal based on evidence.

6. On the quantum, the Tribunal has taken into account the monthly income of the deceased as per the salary certificate and applying multiplier of 13, has arrived at the loss of income at Rs.1,27,87,944/- (Rupees One Crore Twenty Seven Lakhs Eighty Seven Thousand Nine Hundred and Forty Four only).

7. Apart from the above, the Tribunal has also awarded reasonable amounts of Rs.60,000/- (Rupees Sixty Thousand only) towards loss of consortium; a sum of Rs.50,000/- (Rupees Fifty Thousand only) towards loss of love and affection and Rs.20,000/- (Rupees Twenty Thousand only) towards transportation charges and has fixed the total compensation at Rs.1,29,17,944/- (Rupees One Crore Twenty Nine Lakhs Seventeen Thousand Nine Hundred and Forty Four only) and after deducting 30% towards income tax, viz., Rs.38,75,383/- (Rupees Thirty Eight Lakhs Seventy Five Thousand Three Hundred and Eighty Three only), the Tribunal has awarded a sum of Rs.90,42,561/- (Rupees Ninety Lakhs Forty Two Thousand Five Hundred and Sixty only). The Transport Corporation has restricted the appeal only to Rs.42,961/- (Rupees Forty Two Thousand Nine Hundred and Sixty One only) while admitting the liability to the

tune of Rs.90,00,000/- (Rupees Ninety Lakhs only).

8. Considering the age, salary and future prospects, I do not think that the award could be stated to be excessive or exorbitant. Therefore, I see no ground to interfere with the award of the Tribunal.

9. Mrs.T.Kokilavane, learned Counsel appearing for the respondents 1 to 4 would contend that the Tribunal was not correct in deducting income tax, since this Court in ***The Managing Director, TNSTC (Salem) Ltd., v. Chinnadurai*** reported in ***2016 (2) TN MAC 71***, has held that the compensation awarded in Motor Accident Claims cases is not income and therefore, TDS cannot be deducted.

10. I do not think that I can go into the question in this appeal filed by the appellant-Transport Corporation.

11. Leaving it open to the claimants to take appropriate steps regarding the deduction of income tax by the Tribunal, this Civil Miscellaneous Appeal is dismissed, confirming the award dated 07.07.2015 passed in M.C.O.P.No.2022 of 2013 by the Motor Accidents Claims Tribunal – Special District Court, Tiruchirappalli. No costs. Consequently, the connected civil miscellaneous petitions are closed.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To
1. The Motor Accidents Claims Tribunal –
   Special District Court,
   Tiruchirappalli.

2. The Section Officer,
   V.R.Section,
   Madurai Bench of Madras High Court,
   Madurai.

+1cc to Mr.P.Prabhakaran, Advocate in SR.No.54142
+1cc to Mr.C.Padmaraj, Advocate in SR.No.54360

rsb
AE/JC/SAR1/03.07.2017/3P/5C

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