



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.09.2017
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.M.A.No.1745 of 2013

1.M.Jeyanthi
2.Sarathambal
3.Minor.Arul @ Krishnan
Minor represented by his mother and
natural guardian first appellant ... Appellants/Petitioners
2 to 4
Vs.

Tamil Nadu State Transport Corporation,
Represented through its Managing Director,
Bye Pass Road,
Madurai. ... Respondent/Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.2283 of 2004 dated 21.02.2013 on the file of the Motor Accident Claims Tribunal, IV Additional Subordinate Judge, Madurai.

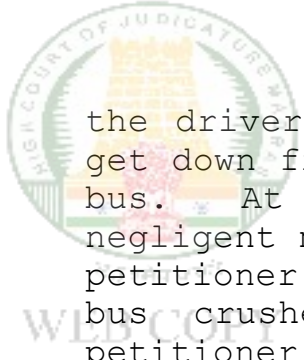
For Appellants : Mr.C.Godwin
For Respondent : Mr.M.Kalaiyarasan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants against the judgment and decree in M.C.O.P.No.2283 of 2004 dated 21.02.2013 on the file of (Motor Accident Claims Tribunal), IV Additional Subordinate Judge, Madurai.

2. The brief facts of the case are as follows and the ranks of the parties have been mentioned as they have been mentioned in the Tribunal:

It is a case of injury and subsequently caused death in which the accident took place on 21.06.2004 at about 12.00 noon. When the first petitioner was travelling as a passenger in a bus belonged to the respondent Tamil Nadu State Transport Corporation bearing Registration No.TN-59-N-0675 from Periyar Bus stand to Head Post Office at Madurai, the first petitioner requested the driver to stop the bus at Head Post Office police beat and when



the driver slowed down the bus and asked the first petitioner to get down from the bus, the first petitioner was alighting from the bus. At that time, the driver moved the bus in a rash and negligent manner without caring the first petitioner and the first petitioner fell down from the bus and the left rear wheel of the bus crushed the first petitioner's leg foot and the first petitioner sustained crush injury and multiple injuries all over the body. Hence, he filed a petition in M.C.O.P.No.2283 of 2004, on the file of the Motor Accident Claims Tribunal - IV Additional Subordinate Court, Madurai, claimed a sum of Rs.5,00,000/- as compensation. When the petition was pending, the first petitioner died and later on the petitioners 2 to 4 were impleaded as legal heirs of the first petitioner.

3. Before the Tribunal, on the side of the claimants, four witnesses viz., P.W.1 to P.W.4 were examined and sixteen documents viz., Exs.P.1 to P.16 were marked and on the side of the respondent, one witness viz., R.W.1 was examined and no document was marked on the side of the respondent.

4. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the claimants and respondent and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the bus belonging to the Tamil Nadu State Transport Corporation and directed the respondent to pay a sum of Rs.1,03,280/- as compensation to the claimants.

5. Against which, the appellants/claimants filed the present appeal seeking enhancement of compensation.

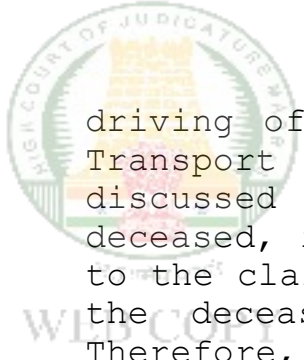
6. The learned counsel appearing for the appellants/ claimants would submit that though the Tribunal in its judgment had elucidated the nature of accident and the injuries sustained by the deceased, it has erred in coming to the conclusion that the death was not due to the injuries sustained by him in the accident and therefore, it has not considered the claim of the claimants. Hence, he seeks interference at the hands of this Court for enhancement of compensation.

7. The learned Counsel for the respondent Tamil Nadu State Transport Corporation would submit that after considering the oral and documentary evidences available on record, the Tribunal has rightly come to the conclusion and awarded just and proper compensation. Hence, he seeks dismissal of this appeal.

8. Heard the learned counsel appearing on both sides and perused the materials available on record.

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9. A perusal of the findings given by the Tribunal, it is seen that accident had occurred only due to the rash and negligent



driving of the bus belonging to the respondent Tamil Nadu State Transport Corporation. While the Tribunal has elaborately discussed the nature of accident and the injuries caused to the deceased, it had awarded a very very meagre amount as compensation to the claimants. Considering the nature of injuries sustained by the deceased, the death has occurred only to the injuries. Therefore, the compensation should be high. Since, the claimants restricted their claim in this appeal to a sum of Rs.2,00,000/-, this Court is inclined to award further sum of Rs.2,00,000/- under various heads. Considering the age of the wife of the deceased, this Court is inclined to award a sum of Rs.1,00,000/- as loss of consortium. Since the fourth respondent who is the minor child of the deceased, has lost his father and he is entitled to a sum of Rs.50,000/- as loss of love and affection. Further this Court is also inclined to award a sum of Rs.25,000/- towards funeral expenses. Considering the period of treatment, this Court is inclined to enhance a sum of Rs.15,000/- towards transportation charges. Considering the period of treatment, this Court is inclined to award a sum of Rs.15,000/- towards attendant charges. The amount awarded by the Tribunal under other heads are hereby confirmed.

10. In view of the above, this Court modifies the award of the Tribunal by enhancing the compensation as under:

S.No	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Award confirmed or enhanced or granted
2.	For Medical Bills	68,280	68,280	confirmed
3.	For Transport charges	5,000	15,000	enhanced
4.	For Extra nourishment	30,000	30,000	confirmed
5	Loss of consortium	--	1,00,000	granted
6	Loss of love and affection	--	50,000	granted
7	For attendant charges	--	15,000	granted
7	For funeral expenses	--	25,000	granted
	Total	Rs.1,03,280	Rs.3,03,280	Enhanced by a sum of Rs.2,00,000/-



11. In the result, this Civil Miscellaneous Appeal is allowed by enhancing the award of compensation from Rs.1,03,280/- to a sum of Rs.3,03,280/-, made in M.C.O.P.No.2283 of 2004, dated 21.02.2013, on the file of the Motor Accident Claims Tribunal cum IV Additional Subordinate Court, Madurai. The respondent Tamil Nadu State Transport Corporation is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited, and on such deposit being made, major claimants are permitted to withdraw their entire share amount as apportioned by the Tribunal along with accrued interest and costs, without filing any petition before the Tribunal. Insofar as the share of the minor is concerned, the same shall be deposited in any one of the Nationalised Bank in a renewable scheme, till he attains majority and the guardian of the minor is permitted to withdraw the interest amount once in six months directly from the Bank for the welfare of the minor. No costs.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

The IV Additional Subordinate Judge,
The Motor Accident Claims Tribunal,
Madurai.

Copy to:

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.C.Godwin, ADVOCATE IN SR No.80421

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MK/KK/SAR-1/13.11.2017/4P/4C

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