



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.1074 of 2011

and

M.P(MD)No.2 of 2011

The Managing Director,
Tamil Nadu State Transport Corporation,
(Coimbatore)Ltd.,
Coimbatore.

... Appellant/ Respondent

Vs.

1.Pappathi
2.Angamuthu
3.S.Ambika

...Respondents/Petitioners

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Order and Decree passed in M.C.O.P.No.100 of 2008 dated 19th Day of August 2010, on the file of Motor Accident Claims Tribunal/District Court, Karur.

For Appellant : Mr.M.Prakash

For Respondents :No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Transport corporation against the award, dated 19.08.2010 made in M.C.O.P.No.100 of 2008 by the Motor Accident Claims Tribunal Cum Additional District Court , Karur.

2. It is a case of fatal accident, which took place on 16.11.2007 at about 14.20 hours., at Karur-Covai Road, near Mochakottampalayam.

3. It is the case of the claimants before the Tribunal that on the date of accident, the deceased travelled as a passenger in a Transport Corporation bus from Coimbatore - Karur and when the bus came near Motchakottampalayam bus-stop, passengers were alighting from another bus belongs to X VTG Company. The driver of the Transport Corporation came with a high speed in a rash and negligent manner, dashed against the stationed bus and in the said



accident, the deceased sustained injuries and thereafter, succumbed to the injuries.

4. The claimants filed an application in M.C.O.P.No.100 of 2008, on the file of the Motor Accident Claims Tribunal /District Court, Karur.

5. Before the Tribunal, the claimants examined two witnesses as P.W.1 and P.W.2., and marked eight documents as Ex.P.1 to Ex.P.8. The appellant/Transport Corporation did not let in oral or documentary evidences.

6.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments advanced on either side and also appreciating the evidence on record, held that the accident had happened only due to the rash and negligent act of the driver of the appellant/Transport Corporation and therefore, directed the appellant/Transport Corporation to pay compensation of Rs.5,18,000/- .

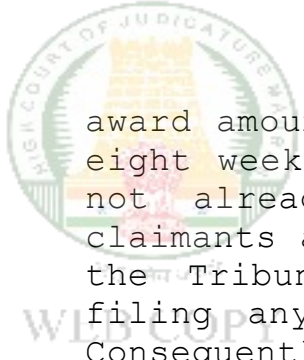
7. Against which, the appellant/ Transport Corporation has filed this present appeal challenging the liability as well as quantum.

8. Though various grounds have been raised in the grounds of appeal, at the time of arguments, the learned counsel for the appellant/Transport Corporation restricted his arguments only to the aspect of quantum and submitted that the Tribunal erred in fixing a sum of Rs.4,000/- as notional monthly income, even though no document was marked by the claimants to prove the avocation, age and income of the deceased and further, no proper deduction was made towards personal expenses of the deceased and therefore, the award of the Tribunal warrants interference by this Court.

9. This Court heard the submissions made by the learned counsel for the appellant and perused the materials available on record.

10. In my considered opinion, Post-mortem certificate is the valid document, when there is no documents is produced to prove the age of the deceased and therefore, there is no infirmity in the said finding. Further, as per the latest judgments, if the income is fixed, the compensation will be more and therefore, the quantum arrived at by the Tribunal does not require any interference.

11. In view of the above, this Civil Miscellaneous Appeal is dismissed and the award dated 19.08.2017 passed in M.C.O.P.No.100 of 2008 on the file of the Motor Accident Claims Tribunal/District Court, Karur, is hereby confirmed. The appellant/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, the claimants are permitted to withdraw their shares as apportioned by the Tribunal, with proportionate interests and costs, without filing any formal application before the Tribunal. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To,

1. The District Judge,
Motor Accident Claims Tribunal,
Karur.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.D.Nallathambi , Advocate in SR.No. 72077

+1 cc to Mr.M.Prakash , Advocate in SR.No. 71821

pm

AE/KK/SAR2/06.09.2017/3P/5C

C.M.A.No.1074 of 2011
10.08.2017