



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :10.08.2017
CORAM
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

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C.M.A.No.1084 of 2011
and
M.P. (MD)No.3 of 2011

The Managing Director,
Tamil Nadu State Express Transport Corporation,
(Tamilnadu Kottam-1) Ltd.,
Chennai.

... Appellant/ Respondent

Vs.

1.Saral
2.Johnson
3.Jansirani
4.Jasmine Jebaselvi

...Respondents/Petitioners

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgement and Decree passed in M.C.O.P.No.188 of 2003 dated 1st Day of September 2008, on the file of the Motor Accident Claims Tribunal/Additional District Judge-cum-Fast Track Court No.II, Thoothukudi.

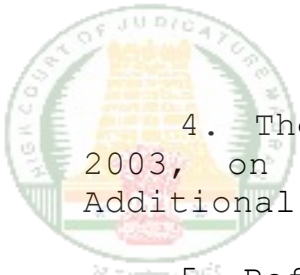
For Appellant : Mrs.Jessi Jeevapriya for
M/s.M.Prakash
For Respondents : Mr.N.Subramanian

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Transport corporation against the award, dated 01.09.2008 made in M.C.O.P.No.188 of 2003 by the Motor Accident Claims Tribunal-Cum-Additional District Judge, (FTC-II), Thoothukudi.

2. It is a case of fatal accident, which took place on 16.11.2002 at about 03.15 a.m., at Madurai to Trichy Main road.

3. It is the case of the claimants before the Tribunal that on 16.11.2002 at about 3.15 a.m., while the deceased Mani was employed as Conductor in the respondent's bus bearing registration No.TN 07N9339 on Madurai-Trichy main road, the driver of the bus drove the vehicle in a rash and negligent manner and attempted to overtake the lorry, which was going ahead and as a result, the bus dashed against the tamarind tree and in the accident, the deceased died on the spot.



4. The claimants filed an application in M.C.O.P.No.188 of 2003, on the file of the Motor Accident Claims Tribunal Cum Additional District Judge, (FTC-I), Thoothukudi.

5. Before the Tribunal, the claimants examined three witnesses as P.Ws.1 to 3 and marked eight documents as Ex.P1 to P8. The appellant did not let in any oral or documentary evidences before the Tribunal.

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 occurred only due to the rash and negligent driving of the driver of the bus and therefore, directed the appellant to pay compensation of Rs.9,20,000/-

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

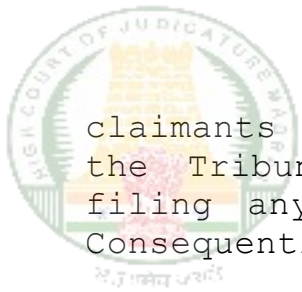
8. Though various grounds have been raised by the appellant in the grounds of appeal, at the time of making arguments, the learned counsel for the appellant restricted his argument only to the aspect of interest awarded by the Tribunal and submitted that the Tribunal awarded 9.5% interest and the same is on higher side and the same is to be reduced.

9. Per contra, the learned counsel for the respondent submitted that considering the plight of the claimants, the Tribunal awarded a just and reasonable compensation, as per law and therefore, the same does not warrant interference and therefore, this appeal is also to be dismissed confirming the award of the Tribunal.

10. Heard the submissions made on either side and perused the materials available on records.

11. A perusal of the award shows that the Tribunal after considering the evidence and also considering the facts and circumstances of the case, awarded a just and reasonable compensation and therefore, I do not find any justification in interfering with the interest awarded by the Tribunal.

12. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 01.09.2008 made in M.C.O.P.No.188 of 2003 by the Motor Accident Claims Tribunal-Cum-Additional District Judge, (FTC-II), Thoothukudi, is confirmed. The appellant/Transport Corporation is directed to deposit the entire 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 share 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 (CS-I)

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/True Copy/

Sub Assistant Registrar

To,

1. The Motor Accident Claims Tribunal
Additional District Judge cum Fast Track Court No.2,
Thoothukudi.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.N.Subramanian, Advocate Sr.No.72436

+1cc to Mr.M.Prakash, Advocate Sr.No.71822

PM

VB/GT/SAR4/31.08.2017/3P/5C

**C.M.A.No.1084 of 2011
and
M.P. (MD) No.3 of 2011**

10.08.2017