



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2017

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.622 of 2011
and
M.P(MD)No.2 of 2011

The Managing Director
State Transport Corporation,
Madurai-Division-2,
Tirunelveli

... Appellant/Respondent

Vs.

1.Balasubramaniam
2.Suganya
3.Lavanya
4.Sankarmmal
5.Mariappa Naicker

... Respondents/Petitioners

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accident Claims Tribunal/Principal District Court, Tirunelveli in M.C.O.P.No.247 of 2008, dated 25.02.2010.

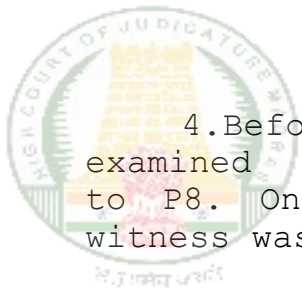
For Appellant : Mr.M.Prakash
For R-1 to R-3 & R-5 : No appearance
For R-4 : Mr.K.Appadurai

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/State Transport Corporation against the judgment and award of the Motor Accident Claims Tribunal/Principal District Court, Tirunelveli passed in M.C.O.P.No.247 of 2008, dated 25.02.2010.

2. It is a case of fatal accident, which took place on 26.10.2007 at about 19.15 hours at Inammaniyachi Bus-stop, Kovilpatti. The accident occurred when the deceased Krishnaveni was alighting from the bus bearing No.T.N.72.N.0515 23 at the bus-stop, before she got down from the bus, the Conductor of the bus whistled and the driver drove the vehicle rashly and negligently and due to that, the said Krishnaveni fell down and the bus ran over her and thereafter, she succumbed to the injuries.

3. The claimants filed an application in in M.C.O.P.No.247 of 2008 on the file of the Motor Accident Claims Tribunal/Principal District Court, Tirunelveli, seeking compensation.



4. Before the Tribunal, the respondents 1 to 5/Claimants examined one witness as P.W.1 and marked eight documents as Exs.P1 to P8. On the side of the appellant/Transport Corporation, one witness was examined as R.W.1 and no document was marked.

5. The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the appellant and claimants and also appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the appellant/Transport Corporation and directed the appellant to pay a sum of Rs.4,74,333/-, as compensation.

6. Against which, the appellant/Transport Corporation has filed this present appeal challenging the liability as well as quantum of compensation awarded by the Tribunal.

7. The learned counsel appearing for the appellant/Transport Corporation submitted that the deceased was also a cause for the accident and therefore, negligence should have been fixed on the deceased also and on the ground that the claimants are not dependents. Further, the compensation and interest awarded by the Tribunal is also on higher side.

8. The learned counsel appearing for the fourth respondent would draw the attention of this Court to the finding rendered by the Tribunal in paragraph No.8, wherein it has been rendered as follows:

"....Thus, through the above cogent and convincing evidences, both oral and documentary, the petitioners have proved that the driver of the bus bearing Registration No.T.N.72.N.0515 had driven the same in a rash and negligent manner and knocked town the first petitioner's wife Krishnaveni..."

9. Based on the above finding, the learned counsel for the fourth respondent submitted that Tribunal has correctly come to the conclusion that the driver of the bus was the cause for the accident and in respect of the dependency of the respondents 4 & 5/Claimants 4 & 5 also, the Tribunal had come to a right conclusion and held that the parents of the deceased are also dependants and they are entitled for just compensation.

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

11. A perusal of the award passed by the Tribunal clearly shows that the Tribunal has discussed in detail and found that the driver of the lorry was the cause for the accident and further, in respect of quantum and dependency of the respondents 4 and 5 also, the Tribunal had come to a correct conclusion and awarded just and reasonable compensation and therefore, there is no infirmity in the



award passed by the Tribunal and the same does not require interference at the hands of this Court. However, taking into consideration the submissions made by the learned counsel for the appellant, I am inclined to reduce the rate of interest from 9% to 7.5%.

WEB COPY

12. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 25.02.2010 passed in M.C.O.P.No.247 of 2008 on the file of the Motor Accident Claims Tribunal/Principal District Court, Tirunelveli, is confirmed. However, the interest is reduced from 9% to 7.5% per annum, from the date of petition till realization. The appellant/Transport Corporation is directed to deposit the entire award amount with accrued interests and costs, within a period of four 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)

/True Copy/

Sub Assistant Registrar

To

The Principal District Judge,
Motor Accident Claims Tribunal,
Tirunelveli.

Copy To:-

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

+ 1 CC TO Mr.K.APPADURAI, ADVOCATE IN SR No. 65963
+ 1 CC TO Mr.M.PRAKASH, ADVOCATE IN SR No. 65962

PM
TE/SKN-RSK/SAR-II : 18/08/2017 : 3P/5C

C.M.A (MD) No.622 of 2011 and
M.P (MD) No.2 of 2011
18.07.2017