

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 23.10.2018

CORAM:

THE HONOURABLE Tmt. JUSTICE S. RAMATHILAGAM

C.M.A.No.2056 of 2007

and

M.P.No.1 of 2007

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

... Appellant/Respondent

Versus

1. K.Babu
2. K.Manjesh Babu

... Respondents/Petitioners

Prayer : Civil Miscellaneous Appeal filed under Sections 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 31.10.2006 made in M.C.O.P.No.3024 of 2000 on the file of the Motor Accident Claims Tribunal Fast Track Court I, Chennai.

For Appellant : K.J.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 31.10.2006 made in M.C.O.P.No.3024 of 2000 on the file of the Motor Accident Claims Tribunal , Fast Track Court I, Chennai.

2. The brief facts leading to the claim application are as follows :

On 12.07.2000 at about 15.30 hours, the deceased was driving the car bearing Registration No.TN 01 K 3006 from Chennai to Cochin and while he was proceeding to Salem Sankagiri Main Road near Koolagoundanoor Mavilpalayan Bus Stop from east to west direction, the bus bearing Registration No. TN 38 N 0728 which came in the opposite direction in a very rash and negligent manner to the extreme southern side of the road dashed against the car head, due to which the deceased who was driving the car sustained multiple fractures and injuries and died on the spot. In the said accident, the car was also smashed. Hence, the legal heirs of the deceased claimed a sum of Rs.12,25,000/- as

compensation.

3. The respondent/Transport corporation in the counter statement denied the mode of accident and the negligence on the part of the driver of the bus and stated that it is the deceased who had driven his car in a rash and negligent manner and while he was trying to overtake the van that was proceeding in front of that vehicle dashed on the front right side of the bus which was coming in the opposite direction. The other facts regarding the age, income, occupation and the claim made at Rs.12,25,000/- is also very much denied by the respondent.

4. The Tribunal, after analyzing the evidence and documents viz., PW1 and Ex.P1, FIR placed before it, has given finding that the accident had occurred only due to the negligence on the part of the driver of the bus which resulted in the death of the deceased.

5. The Tribunal has also analysed the documents relating to the age, income and occupation of the deceased and awarded a sum of Rs.5,78,000/- as compensation under various heads as follows:

For Loss of Income :	Rs.5,76,000.00
For Funeral Expenses:	Rs. 2,000.00

Total

Rs. 5,78,000.00

Aggrieved against the said award, the respondent/ Transport Corporation has preferred this appeal.

6. In the grounds of appeal, the appellant has stated that it is the deceased who had driven his car in a rash and negligent manner and hit against the Corporation bus. The sum determined by the Tribunal by fixing the monthly income at Rs.4000/- and age of the deceased are erroneous in the absence of any proof or document. Hence, on the whole, the sum awarded by the Tribunal at Rs.5,78,000/- is highly excessive.

7. On a perusal of records, it is observed that Ex.P1 is the FIR which was filed before the Tribunal and PW2 who is the eye witness was examined before the Tribunal. Based on the evidence of PW2, who had seen the occurrence has deposed before the Tribunal that it is the Transport Corporation bus which came in a rash and negligent manner and hit against the Ambassador Tourist vehicle, thereby caused the accident. It is also stated that immediately after the accident, the driver of the said bus absconded from the place. Based on the evidence of eye witness and Ex.P1 FIR, the Tribunal has given finding that the accident had occurred only due to the negligent act on the part of the driver of the bus. The clear evidence placed by the eye witness that immediately after the accident the driver of the bus was absconded from the place itself proves that he is guilty of the

rash and negligent driving. Hence, the finding of the Tribunal with regard to the aspect of negligence on the part of the driver of the bus is very much proper which are purely based on the evidence and documents.

8. Regarding compensation determined by the Tribunal, it is observed that the deceased was a Tourist car driver by profession and he is also aged 45 years at the time of accident. PW1 is the son of the deceased, who deposed before the court that the deceased was earning Rs.10,000/- to Rs.15,000/- per month. But, however, the Tribunal has taken the income at Rs.4000/- per month and calculated the loss of income by applying the multiplier and arrived the same at Rs.5,76,000/- which is not on the higher side. This Court does not want to interfere with the monthly income taken by the Tribunal by considering the fact that the deceased as a Tourist driver by profession could have earned Rs.4000/- per month. The sum awarded under the head 'funeral expenses' is also not on the higher side and does not require any change.

9. Hence, this Court is of the opinion that the sum determined by the Tribunal and also the liability fixed on the driver of the bus are all very much reasonable and appropriate as they are all based on the documents and evidence does not require any interference.

10. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

11. Accordingly, the appellant/ Transport Corporation is directed to deposit the entire award amount by the Tribunal, with interest and costs, after adjusting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the same to the claimant's bank account through RTGS within one week thereon.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

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To

1. The Additional District and Sessions Judge
The Motor Accident Claims Tribunal
Fast Track Court I,
Chennai.

2.The Section Officer,
V.R.Section,
High Court,
Madras.

+1 CC to Mr.K.J.Sivakumar, Advocate sr 72057.

C.M.A. No.2056 of 2007
and
M.P.N.1 of 2007

EV(CO)
SP(26/04/2019)