

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.10.2018

C O R A M

THE HONOURABLE MRS. JUSTICE S. RAMATHILAGAM

C.M.A.No.2347 of 2006

and

M.P.No.2 of 2006

The Managing Director
Tamil Nadu State Transport
Corporation Limited
Vellore.

...Appellant/1st Respondent

Vs.

1. Kuppu Ammal

2. Pavadai

...Respondents 1&2/Petitioners

3. P. Vijaya Kumar

4. United India Insurance Co., Ltd.,

No.95, Big Street,

Tiruvannamalai.

... Respondents 3&4/Respondents 2&3

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgement and decree in M.C.O.P No.957 of 2004 on the file of the Motor Accidents Claims Tribunal, Tiruvannamalai), dated 30.09.2005.

For Appellant : Mr. S.V. Vasanthakumar

For Respondents : No Appearance

J U D G M E N T

The Civil Miscellaneous Appeal has been preferred by the appellant/Tamil Nadu State Transport Corporation challenging the judgment and decree in M.C.O.P No.957 of 2004, on the file of the Motor Accidents Claims Tribunal, Tiruvannamalai, dated 30.09.2005.

2. The brief facts in the claim petition are as follows:

On 24.09.2004 at about 4.00 a.m., the deceased Indhira, was travelling as passenger in the bus belonging to the first

respondent/ Tamil Nadu State Transport Corporation bearing Registration No. TN-23-N-1372 and when the said transport bus was proceeding to Tiruvannamalai, the driver drove the bus in a rash and negligent manner and hit against the van bearing Registration No. TN-GA-02-V-6001 belonging to the 2nd respondent which was proceeding in front of the bus. Due to the said accident, many passengers, who were travelling in the said transport bus sustained injury and Indhira died on the spot. The claimants, who are the legal heirs of the deceased Indhira claimed a sum of Rs.10,00,000/- as compensation.

3. The 1st respondent/Tamil Nadu State Transport Corporation has stated in the counter statement that the driver of the transport bus had driven the transport bus in a very cautious manner and at the time of accident there was slight drizzling and it was the driver of the lorry which was proceeding in front of the transport bus applied sudden brake and due to that the driver of the transport bus which was coming from behind the lorry, having no other option, forced to apply brake suddenly and hence the bus hit against the lorry and the said accident had occurred. The driver of the transport bus also sustained injury. Therefore, the accident occurred only because of the negligent act on the part of the lorry driver, who, without giving any signal, suddenly, stopped the vehicle. The sum claimed by the claimant is also stated to be excessive one, in the absence of any supporting documents.

4. The Tribunal, after analysing the documents and evidences placed before it, has given a finding that the accident occurred only because of the driver of the transport bus, who tried to overtake the van, and hence, fixed the rash and negligent act on the part of the driver of the transport bus and awarded a sum of Rs.2,21,880/- as compensation for the claimants under the heads as follows:

Sl.No.	Description	Amount
1.	Loss of Income :	Rs.2,14,880.00 [12,640 x 17]
2.	Loss of love and affection:	Rs.5,000.00
3.	Funeral Expenses :	Rs.2,000.00
Total :		Rs.2,21,880.00

5. The learned counsel for the appellant has submitted that the Tribunal has committed grave error by fixing the liability based on the evidence of PW2. The accident has occurred only due to the negligence of the lorry driver. But

the Tribunal has fixed the negligent driving on the part of the driver of the transport bus without examining any Police Officer. The Tribunal has failed to appreciate that the driver of the Transport Corporation drove the vehicle in a very cautious manner.

6. According to the learned counsel, the sum awarded by the Tribunal at Rs.2,21,880/-, by applying the multiplier 17, is highly excessive and without any basis. The other aspects regarding the age, occupation and monthly income of the deceased person were also disputed by the Transport Corporation. Aggrieved by the award passed by the Tribunal, the Transport Corporation has preferred this appeal.

7. Heard both sides and perused the materials available on record.

8. On the side of the appellant, it is argued that the Tribunal has not considered the fact that the transport bus was not at all responsible for the accident. Since there was slight drizzling and also due to the sudden brake applied by the lorry of the driver who was proceeding in front of the bus, without making any signal, the driver of the bus has no other option, had applied brake and stopped the vehicle, hence hit against the van. The Tribunal, after observing the evidence of PW1 and PW2, who have deposed before the Tribunal that the said accident had occurred only due to rash and negligent act on the part of the driver of the transport corporation bus.

9. On a perusal of records, it is seen that PW1 had deposed that the driver of the Transport Corporation had driven the bus in a rash and negligent manner and hit against the van, which was proceeding in front of the bus, resulting number of passengers have sustained injuries and one passenger Indhira, died on the spot. By relying upon the documents, the Tribunal has observed that the van was proceeding at a distance of 30 ft., ahead of the bus. If the driver of the bus had maintained normal speed, the accident would not have occurred. Hence, the negligence fixed by the Tribunal on the part of the driver of the transport corporation bus based on the evidence and documents, is very much reasonable and does not call for any interference.

10. Now, no coming to the quantum of compensation, it is argued by the appellant that the claim made by the claimants are excessive and the sum awarded is also on the higher side.

11. On perusal of the judgment, it is seen that the deceased Indhira was 22 years old at the time of accident and she was working as a Manager in V.R. Export Company, Thiruppur, for which Ex.P5 had filed before the Tribunal. The said

document also shows that the deceased was receiving monthly income of Rs.1,580/- per month. Hence, the Tribunal, by taking into consideration the monthly income at Rs.1,580/-, based on Ex.P5, and by applying the correct multiplier has calculated the loss of income. Therefore, it does not require any modification. Further, the sum awarded for loss of love and affection at Rs.5,000/- and sum awarded for funeral expenses at Rs.2,000/- are also found very much reasonable and no interference is called for.

12. On going through the entire records, this Court is of the view that the Tribunal has correctly appreciated the materials produced before it and calculated the compensation. The amount awarded under various heads are just and proper and they do not require any interference by this Court. The liability also correctly fastened on the driver of the transport bus.

13. In the result, the judgement and decree passed in M.C.O.P No.957 of 2004 on the file of the Motor Accidents Claims Tribunal, Tiruvannamalai), dated 30.09.2005 is confirmed. This Civil Miscellaneous Appeal is dismissed. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

14. The Appellant/Transport Corporation is directed to deposit the entire amount awarded along with interest as apportioned by the tribunal within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the tribunal is directed to deposit the amount to the claimant's bank account directly through RTGS within a period of one week thereon.

Sd/-

Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

msm

To

1. The Managing Director
Tamil Nadu State Transport Corporation Limited
Vellore.

2. United India Insurance Co., Ltd.,
No.95, Big Street,Tiruvannamalai.

3. The Section Officer, VR Section,
High Court, Madras.

C.M.A.No.2347 of 2006

PM(CO)
GMY (29/04/2019)



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