

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 25.10.2018

CORAM

THE HONOURABLE TMT.JUSTICE S.RAMATHILAGAM

CMA.No.2738 of 2005

and

CMP.No.14195 of 2005

Metropolitan Transport Corporation
(CD - II) Limited (Formerly known as DATC)
rep. By its Managing Director

....

Appellant/Respondent

Versus

Muthulakshmi

....

Respondent/Petitioner

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Award and Decree dated 04.11.2003 made in MACTOP No.2054 of 1999 on the file of the Motor Accidents Claims Tribunal (VI Judge, Small Causes Court) Chennai-I.

For Appellant : Mr.S.V.Vasanthakumar

For Respondent : No Appearance

JUDGMENT

This Civil Miscellaneous Appeal is directed against the Award and Decree dated 04.11.2003 made in MACTOP No.2054 of 1999 on the file of the Motor Accidents Claims Tribunal (VI Judge, Small Causes Court) Chennai.

2. The brief facts of the case are as follows :-

On 12.01.1999 at about 08.15 hours, the deceased was waiting for the bus in Ambattur Bus Stand, at that time the M.T.C. Bus bearing Registration No.TN-01-N-1474 was driven by its driver, in a rash and negligent manner, came at a dangerous speed and dashed against the deceased and succumbed to death. The claimant, who is the mother of the deceased has claimed a sum of Rs.3,00,000/- as compensation.

3. The appellant/Transport Corporation, in the counter statement, has denied the negligence on the part of the driver of the bus and stated that it is the deceased, who tried to get down from the moving bus and fell down and sustained fatal injuries. Hence, it is the negligence on the part of the

deceased, who invited the accident by trying to get down from a moving bus.

4. The Tribunal, upon analyzing and oral evidence and documents, has given a finding that the respondent's bus driver is responsible for the accident by way of his rash and negligent driving, which resulted in the fatal injuries. The Tribunal has awarded a sum of Rs.1,92,500/- as compensation. Aggrieved against the said award, the Metropolitan Transport Corporation has preferred this appeal.

5. In the grounds of appeal, it has been stated that the deceased who tried to get down from the moving bus, got fatal injuries. Hence, the appellant is not liable to pay compensation. It is further stated that the tribunal ought not to have considered the evidence of P.W.2 the interested witness, who supported the claimant. The tribunal without considering the evidence of R.W.1 and R.W.2, who are the driver and the investigator of the appellant/Transport Corporation respectively and Ex.R1-Investigation Report fixed the liability on the driver of the bus which is not proper. At least the Tribunal ought to have been fixed contributory negligence on the part of the deceased. The further grievances raised in the appeal is that fixing the Income of the deceased at Rs.1,500/- and arriving the loss of income by adopting multiplier is not proper, on the whole, the sum arrived by the Tribunal is excessive.

6. The learned counsel for the appellant is present. No representation on behalf of the respondent.

7. On a perusal of records, it is seen that before the Tribunal P.W.2 was examined, who has clearly deposed that the deceased was standing in the bus stop and at that time, the respondent bus dashed against him and the accident was occurred only due to rash and negligent driving on the part of the driver. The deceased sustained fatal injury and P.W.2 informed P.W.1 about the accident. P.W.1 is the mother of the deceased, who deposed that she came to know about the accident through P.W.2. R.W.1. is the driver of the bus, he has deposed that the bus while entering into the bus stop, one among the passenger who tried to get down the bus, had fallen down and sustained injuries. The said fact was also informed to the police by the driver R.W.2. But in the cross-examination he has stated that he is unaware of the accident and does not know how the accident had occurred. The tribunal on considering the contrary evidence of R.W.1 and other documents and witnesses has given finding by fixing rash and negligence on the part of the driver of the transport corporation bus. Though, the liability

is also denied by the appellant, the main argument advanced is only against the quantum.

8. On a perusal of the evidence and documents, it is observed that the deceased was aged about 15 years at the time of accident and he was doing Tailoring work and earning a sum of Rs.3,000/- per month. The claimant, who is the mother of the deceased is a widow. Hence, the Tribunal by considering the age of the deceased and his responsibility as a main person in providing all comforts and necessities to his widowed mother has fixed the income at Rs.1,500/- and after deducting the sum for personal expenses and also by applying the multiplier method, the loss of income has been arrived at Rs.1,56,000/-. The sum arrived by the Tribunal based on the age and the occupation and the responsibility of the deceased who is the breadwinner of the family, the sum determined by the Tribunal is very much reasonable. However, the sum awarded by the Tribunal under other heads viz., funeral expenses, future loss of life expectancy, loss of his estate and also pain and suffering and transport expenses are found very much reasonable and proper.

9. The sum awarded by the Tribunal under various heads are as follows :-

Heads	Amount awarded by the Tribunal (Rs.)
For Loss of Income (Rs.1500*1/3=Rs.1000) (Rs.1000*12*13)	1,56,000.00
For Transport Expenses	500.00
For Funeral expenses	6,000.00
For Loss of life expectancy	10,000.00
For Pain and Suffering	10,000.00
For loss of estate	10,000.00
Total compensation	1,92,500.00

10. In view of the fact that the sum awarded by the tribunal is based on the evidence and documents, which found very much reasonable and proper, this Court is unable to see any reason to interfere with the findings of the Tribunal. Hence, the order of the tribunal is confirmed.

11. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

12. The Appellant/Transport Corporation is directed to deposit the entire award amount awarded by the tribunal with interest and costs, before the Tribunal, if not 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.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gbi/lpp

To

1. The Motor Accidents Claims Tribunal
(VI Judge, Small Causes Court)
Chennai-1.

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

+1cc to Mr.S.V.Vasanthakumar, Advocate sr.72861

CMA.No.2738 of 2005
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