

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2018

CORAM:

THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

C.M.A.No.3296 of 2005
and C.M.P.No.16810 of 2005

The Managing Director,
Metropolitan Transport Corporation
Ltd., Pallavan Salai,
Chennai - 600 002.

... Appellant/Respondent

Vs.

S.Durai

..Respondent/Petitioner

Prayer :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the decree and judgment of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No.3, Poonamallee, dated 18.02.2005.

For Appellant : Mr.A.Babu

JUDGMENT

The appellant/Metropolitan Transport Corporation has preferred this appeal against the award and decree passed in M.C.O.P.No.24 of 2003 on the file of the Additional District Judge (Motor Accidents Claims Tribunal), Fast Track Court No.3, Poonamallee, dated 18.02.2005.

2. The brief facts of the claim application is as follows:-

This Claim Application has been filed by the husband of the deceased one Mahadevi who met with a accident by falling from the bus belonging to the appellant. It has been stated in the Claim Application that the bus was suddenly moved by the driver of the appellant-Transport Corporation bus without noticing the deceased getting down from the bus, the deceased sustained severe injuries and died. The husband of the deceased has filed a claim petition, claiming a sum of Rs.2,03,000/- as compensation.

3. The respondent/Transport Corporation has also filed

counter statement, stating that the driver of the bus is not responsible for the accident and there is also no bus stop at the place of accident. It is the negligence on the part of the deceased, who was trying to get down from the moving bus. Hence, the appellant/Transport Corporation does not own the liability.

4. The Tribunal, after analyzing the evidence and documents placed before it, awarded a sum of Rs.1,44,000/- as compensation. Aggrieved against the said award, the Transport Corporation has preferred this appeal to set aside the same.

5. In the grounds of appeal, the appellant has stated that there is no eye witness to the accident and no credence has been given to the evidence of R.W.1 and R.W.2 and it is the negligent act of the deceased, which resulted in the accident and in no way, the Transport Corporation is responsible for paying the compensation to the claimant. Further grounds raised in the appeal would show that the Tribunal has fixed the monthly income of the deceased at Rs.2,000/- without any material, and the total sum arrived as compensation by the Tribunal at Rs.1,44,000/- is highly excessive. Hence, the appellant sought for dismissal of the appeal.

6. On perusal of records, it is seen that one Palaninathan has preferred complaint against the driver of the Corporation bus. The said Palaninathan is the conductor of the said bus. From the evidence of P.W.1, it is observed that while the deceased was trying to get down from the bus, the driver of the said bus suddenly moved the bus and caused severe injuries to the deceased, as she fell from the bus. However, it is observed that there was no eye witness to the accident.

7. Based on the F.I.R, a Criminal case has been registered in which, it is stated that it is the negligence on the part of the driver, who suddenly moved the bus, without noticing the passenger, who was getting down and resulted in the accident and a case has been registered in the Poonamallee Police Station. The evidence of the complainant was also recorded before the Criminal Court . Hence, the finding of the tribunal fixing negligence on the part of the driver of the Transport Corporation does not require any interference. The monthly income fixed by the tribunal at Rs.2000/- by observing that the any revision, who is occupation as coolie or tailor, earn Rs.3,000/- per month and deducted Rs.10,000/- towards funeral expenses is proper. Accordingly, calculating the compensation for 6 years at Rs.1,44,000/- by taking annual income i.e Rs.24,000/- (2000x12x6) which is not excessive.

8. Hence, the sum awarded by the Tribunal at Rs.1,44,000/-

is quite reasonable and proper. Further, the interest awarded at 9% p.a is also quite reasonable. Hence, this Court is of the view that the award of the Tribunal does not warrant any interference the award of the tribunal is confirmed.

9. In the result, this Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

nvi

To

The Additional District Judge, Fast Track Court No.3,
Poonamallee.

Copy To

The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.S.V.Vasantha Kumar, Advocate, S.R.No.68038

C.M.A.No.3296 of 2005
and C.M.P.No.16810 of 2005

MG(CO)
CS/03/10/2019

सत्यमेव जयते

WEB COPY