

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2018

CORAM:

THE HONOURABLE MRS. JUSTICE.R.HEMALATHA

CMA.No.3929 of 2005
and
C.M.P.No.19451 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.
Coimbatore Division-I,
No.37, Mettupalayam Road,
Coimbatore.

...Appellant/2nd respondent

/vs/

1. Ramathaal
2. Rangasamy ...Respondents 1 & 2/ Claimants
3. Udhayakumar (Driver Given up)
...3rd respondent/ Respondent No.1

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 20.04.2004 made in M.C.O.P.No.377 of 2000 on the file of the Motor Accident Claims Tribunal, First Additional District Court, Coimbatore.

For Petitioner : K.J.Sivakumar

For Respondents
1 to 3 : No Appearance

J U D G M E N T

The Tamil Nadu State Transport Corporation Limited, Coimbatore, who is the 2nd respondent in M.C.O.P.No.377 of 2000 on the file of the First Additional District Judge, Motor Vehicle Accidents Claims Tribunal, Coimbatore has filed the present appeal.

2. The brief facts of the case of the claimants in M.C.O.P.No.377 of 2000 are briefly as follows. On 26.02.2000,

at about 12.15 hours, the deceased Kumarasamy Gounder was riding his two wheeler namely TVS 50 bearing Registration No.TN 37 R 9540 and while he was nearing Periyakadai Street, Coimbatore, a speeding bus bearing Registration No. TN 38 N 0050, belonging to the appellant/2nd respondent hit the deceased Kumarasamy Gounder, as a result of which, he sustained injuries all over his body. Immediately, he was rushed to Coimbatore Medical College Hospital, where, he succumbed to injuries on the same day. According to the claimants, the rash and negligent driving of the driver of the 2nd respondent was the cause to the accident. The first claimant is the wife and the 2nd claimant is the son of the deceased.

3. In the trial court, the first respondent, who is the driver of the bus bearing registration No.TN 38 N 0050 remained absent and was set exparte.

4. The 2nd respondent filed a counter affidavit denying all the allegations of the claimants.

5. After analysing the entire evidence on record, the First Additional District Judge, Motor Vehicle Accidents Claims Tribunal, Coimbatore awarded a compensation of Rs.2,20,000/- to the claimants together with interest at the rate of 9% p.a.

6. Aggrieved over the award passed by the First Additional District Judge, Motor Vehicle Accidents Claims Tribunal, Coimbatore, in M.C.O.P.No.377 of 200, the Tamil Nadu State Transport Corporation Limited/appellant has filed the present appeal contending that the quantum of compensation awarded by the Tribunal is on the higher side.

7. Mr.K.J.Sivakumar, learned counsel appearing for the appellant/ 2nd respondent would contend that the the First Additional District Judge, Motor Vehicle Accidents Claims Tribunal, Coimbatore has fixed the age of the deceased as 57 years, without any proof and that the income of the deceased is also fixed at Rs.3,000/- per month, though, no documentary evidence was adduced by the claimants.

8. No appearance for the respondents in the present appeal.

9. A perusal of the postmortem report Ex.P5 shows that the deceased was aged 57 years and this was considered by the Tribunal. Though the claimants contended that the deceased was a vegetable vendor and was earning a sum of Rs.8,000/- per month, the Tribunal has fixed only a sum of Rs.3,000/- as monthly income of the deceased Kumarasamy Gounder. This amount cannot be said to be on the higher side. A perusal of the Award passed by the Tribunal shows that a just compensation has been awarded to the claimants for the accident that took place in the year 2000. Therefore, I do not see any reason to interfere with the findings of the First Additional District Judge, Motor

Vehicle Accidents Claims Tribunal, Coimbatore and hence, the appeal is liable to be dismissed.

10. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

(ii) The Award and decree passed by the I Additional District Judge, Motor Vehicle Accidents Claims Tribunal, Coimbatore in M.C.O.P.No.377 of 2000 dated 20.04,2004 is upheld.

(iii) The appellant is directed to deposit the entire Award amount along with the interest to the credit of the I Additional District Judge, Motor Vehicle Accidents Claims Tribunal, Coimbatore, within a period of four weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit being made, the claimants are permitted to withdraw the same.

mst

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1 . The I Additional District Judge,
Motor Vehicle Accidents Claims Tribunal,
Coimbatore.
- 2 . The Managing Director,
Tamil Nadu State Transport Corporation Ltd.
Coimbatore Division-I,
No.37, Mettupalayam Road,
Coimbatore.
3. The Section Officer,
V.R.Section,
High Court,
Madras. (2 copies)

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.77971

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SR.NO. (co)
kak(07/01/2019)