

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.02.2018

Coram

The Honourable Mr. Justice S.BASKARAN

Civil Miscellaneous Appeal No.168 of 2018
and CMP.2050 of 2018

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam.
Having office at Railway Station Road,
Kumbakonam Town. Appellant

...vs...

1.Radhakrishnan
2.Rajkumar
3.Ranjithkumar ... Respondents

This Civil Miscellaneous Appeal has filed under Section 173 of Motor Vehicles Act, 1988, against the Fair and Decretal order dated 20.01.2017 made in MCOP.No.294 of 2014 on the file of the Motor Accident Claims Tribunal/Additional Sub Judge, Mayiladuthurai.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

Aggrieved over the award passed by the Tribunal dated 20.01.2017 made in MCOP.No.294 of 2014 on the file of the Motor Accident Claims Tribunal/Additional Sub Judge, Mayiladuthurai, the present appeal has been filed by the respondent Transport Corporation to set aside the award passed by the Tribunal.

2. For sake of convenience, the parties will be hereinafter referred to in this judgment as arrayed before the Tribunal.

3. The case of the petitioners is that on 26.06.2014, when the deceased Rajeswari was going to temple, near Kuravalur bus stop, the respondent Transport Corporation bus bearing Registration No.TN-49-N-1354 came at high speed and dashed against the said Rajeswari causing her death on the spot. The negligence on the part of the driver of the respondent bus driver alone caused the accident. The deceased was working as

Tailor and earning a sum of Rs.15,000/- p.m., and she was aged about 44 years at the time of accident. As such the petitioners who are the husband and children of the deceased have lost the love and care and also contribution to the family by the deceased. Hence, the petitioners seek a sum of RS.10,00,000/- as compensation from the respondent.

4. On the other hand, opposing the claim petition, the respondent corporation contends that the negligence on the part of the driver of the bus is not the cause for the accident. The deceased suddenly came across the road without noticing the on coming bus and as a result of which the accident occurred and as such the respondent is not liable to pay any compensation to the petitioners. Hence, the respondent seek dismissal of the petition.

5. Before the Tribunal, the petitioner examined P.W.1 and P.W.2 and produced documents Ex.P1 to Ex.P3 to substantiate their claim. On the side of the respondent, the driver of the respondent transport corporation bus was examined as R.W.1 but no document was produced.

6. The Tribunal, after considering the pleadings, oral and documentary evidence, concluded that the accident occurred only due to the rash and negligent driving of the driver of the offending vehicle owned by the respondent corporation and directed the respondent to pay a sum of Rs.11,11,000/- as compensation. Aggrieved over the said finding of the Tribunal, the respondent corporation has come forward with this appeal to set aside the award passed by the Tribunal.

7. Heard the learned counsel appearing for the appellant and perused the materials available on record.

8. The learned counsel appearing for the appellant/respondent corporation contends that the Tribunal failed to consider the aspects of monthly income of the deceased properly and without any proof fixed the monthly income at Rs.8,000/-. The claim of the petitioners itself was Rs.10,00,000/- only, but the Tribunal awarded a sum of Rs.11,11,000/- and the same is not proper. Hence, the respondent seeks to entertain the appeal and set aside the award passed by the Tribunal.

9. The appeal is mainly filed only on the issue of quantum of compensation. The learned counsel appearing for the appellant/respondent corporation contended that the Tribunal has wrongly assessed the age and monthly income of the deceased and awarded a very high sum to the petitioners.

10. It is evident from the evidence of P.Ws.1 and 2 and Ex.P1 First Information Report that the accident occurred only due to the negligence of the respondent driver. Even though the Driver of the bus was examined as R.W.1 to dispute the claim of the petitioner, R.W.1 himself admitted that the respondent corporation issued a memo to him and conducted enquiry in respect of the accident. In such circumstances, considering the evidence of P.W.1 and P.W.2 and the fact that the case has been registered by the police against R.W.1 only, the finding of the Tribunal that the negligence of the respondent driver alone caused the accident is perfectly in order and the same.

11. This Court, on going through the oral and documentary evidence of the petitioners, is of the view that the conclusion arrived at by the Tribunal with regard to the quantum of compensation is concerned, does not warrant interference. Further, no serious argument has been advanced by the appellant transport corporation in that regard. The Tribunal has assessed the monthly notional income of the deceased who was working as Tailor at Rs.10,000/- and deducted 1/3rd amount towards her personal expenses and arrived at loss of income at Rs.89,600/- per annum. It also awarded different amounts for loss of love and affection, Transport charges and funeral expenses to the petitioners. Considering the available materials on record, it is clear that the quantum of compensation awarded by the Tribunal cannot be said to be on the higher side and it is only just and fair compensation. As such there is no merit in the appeal and the same is deserves to be dismissed at the admission itself.

12. In the result, the civil miscellaneous appeal is dismissed at the admission stage itself. No costs. The award passed by the Tribunal dated 20.01.2017 made in MCOP.No.294 of 2014 on the file of the Motor Accident Claims Tribunal/Additional Sub Judge, Mayiladuthurai is confirmed. The respondent corporation is directed to pay the entire award amount with accrued interest within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the petitioners/claimants are entitled equal share of the award amount. The petitioners/claimants are permitted to withdraw their respective share with accrued interest by filing necessary application before the Tribunal.

Sd/-

Assistant Registrar (CS-vii)

//True Copy//

Sub Assistant Registrar

rrg

To

The Additional Sub Judge,
Motor Accident Claims Tribunal,
Mayiladuthurai.

Copy to
The Record keeper,
V.R. Section, High Court,
Madras.

+1cc to Mr.D.VENKATACHALAM, Advocate, S.R.No.10325

C.M.A.No.168 of 2018

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