

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.929 of 2012
and M.P.No.1 of 2012

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Ramakrishna Road,
Salem. ...Appellant/1st Respondent

Vs

- 1.Govindaraj
- 2.Nagaraj
- 3.Jothi
- 4.Minor.Mara
Minor Represented
by N.F.Grand Father Chinnasamy
- 5.Chinnasamy
- 6.Muniammal
- 7.N.Saravanakumar
(Set-Exparte in lower Court)
8. Bajaj Allianz General Insurance Co. Ltd.,
Represented by its Branch Manager,
No-25/26 Prince Tower, 4th Floor,
College Road, Nungambakkam,
Chennai - 600 006. ...Respondents/Petitioner/
2nd and 3rd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 06-04-2011 and made in M.C.O.P.No.219 of 2008, on the file of Motor Accidents Claims Tribunal, Principal District Judge, Krishnagiri and praying to set aside the same.

For Appellant : Mr.V.Ramesh
For Respondents : Mr.Mukund K.Pandiyan for R1 to R6
: R7 -Exparte
: Not ready in notice - R8

JUDGMENT

The instant appeal has been filed by the Appellant Transport Corporation challenging the Award dated 06.04.2011, passed by the Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri in M.C.O.P.No.219 of 2008.

2.The brief facts leading to the filing of the instant appeal are as follows:

(i)One Munusamy died on 14.11.2007 as a result of an accident caused by a bus bearing Registration No.TN-29-N-1884 owned by the Appellant Transport Corporation. The dependants of the deceased Munusamy are the respondent Nos.1 to 6 in this appeal.

(ii)The claimants preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.219 of 2008, seeking a compensation of Rs.16,00,000/- for the death of Munusamy.

(ii)The Motor Accident Claims Tribunal, by its Award dated 06.04.2011 in M.C.O.P.No.219 of 2008, directed the Appellant Transport Corporation to pay the respondent Nos.1 to 6 a sum of Rs.5,19,000/- together with interest at the rate of 6% per annum from the date of claim till the date of realisation.

3.Aggrieved by the Award dated 06.04.2011, passed in M.C.O.P. No.219 of 2008, the instant appeal has been filed by the Transport Corporation.

4.Heard, Mr.V.Ramesh, learned Counsel for the Appellant and Mr.Mukund K.Pandiyan, learned Counsel for the respondent Nos.1 to 6.

5.According to the learned Counsel for the Appellant, only due to the rash and negligent driving by the driver of the Eicher Van, in which the deceased was travelling, the accident had happened which resulted in the death of Munusamy. According to him, RW-1 and RW-2, the witnesses of the Appellant Transport Corporation before the Tribunal have deposed that only due to rash and negligent driving by the driver of Eicher Van, the accident had happened. According to him, the Tribunal has erroneously fixed the negligence on the part of the driver of the bus owned by the Appellant Transport Corporation.

6.The learned Counsel for the Appellant would further contend that the Tribunal has erroneously assessed the monthly income of the deceased at Rs.4,000/- and ought not to have awarded a sum of Rs.5,19,000/- as the total compensation payable to the respondent Nos.1 to 6 in this appeal. Further, he would contend that the respondent Nos.1 to 6 also did not produce any documentary evidence to prove the occupation and income of the deceased at the time of the accident before the Tribunal.

7.Per contra, learned Counsel for the respondent Nos.1 to 6 would submit that the compensation awarded to the respondent Nos. 1 to 6 under the impugned Award is a just compensation. According to him, even though, the respondent Nos.1 to 6 had made a claim of Rs.16,00,000/-. But the Tribunal has awarded only a sum of Rs.5,19,000/- under the impugned Award. Further,

he would contend that the deceased Munusamy was aged 45 years at the time of accident and was doing flower and tomato business, earning a monthly income of Rs.7,500/-. But the Tribunal has assessed his monthly income under the impugned Award only at Rs.4,000/-.

8.The learned Counsel for the respondent Nos.1 to 6 further submitted that the FIR was registered only against the driver of the bus owned by the Appellant Transport Corporation and therefore, Tribunal has come to the right conclusion that the Appellant Transport Corporation alone is liable to compensate the claim of the respondent Nos.1 to 6.

9.This Court after having considered the materials available on record and after examining the impugned Award and after hearing the submissions of the respective Counsels observes the following:

(a)The Tribunal has given a categorical finding based on the oral and documentary evidence that it is only due to the rash and negligent driving by the driver of the bus owned by the Appellant Transport Corporation, the accident had happened which resulted in the death of Munusamy.

(b)The accident happened in the year 2007. Since no document was filed by respondent Nos.1 to 6 before the Tribunal to prove the monthly income of the deceased at the time of accident, the Tribunal has assessed the notional income of the deceased at the time of accident at Rs.4,000/-. The avocation of the deceased has also not been disputed by the Appellant before the Tribunal. Considering the same, the assessment of monthly notional income of the deceased at the time of accident by the Tribunal at Rs.4,000/- is a correct assessment.

(c)The Tribunal under the impugned Award has awarded a sum of Rs.5,04,000/- towards loss of dependency, Rs.10,000/- towards loss of estate, Rs.5,000/- towards transportation and funeral expenses in all a total compensation of Rs.5,19,000/- was awarded to the respondent Nos.1 to 6. The Tribunal has rightly applied the correct multiplier 14 and has also deducted $\frac{1}{4}$ towards personal expenses of the deceased. The compensation awarded under various other heads under the impugned Award is a just compensation.

10.In the light of the above observations, this Court is of the considered view that there is no merit in the instant appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The Appellant is directed to deposit the amount as awarded by the Tribunal together with interest at the rate of 6% per annum from the date of claim till the date of realisation, after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.219 of 2008, on the file of Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri, within a period of four weeks from the date of

receipt of copy of this order. On such deposit being made, the respondent Nos.1 to 6 are permitted to withdraw the said sum by filing an appropriate application.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

ebsi/pam

To

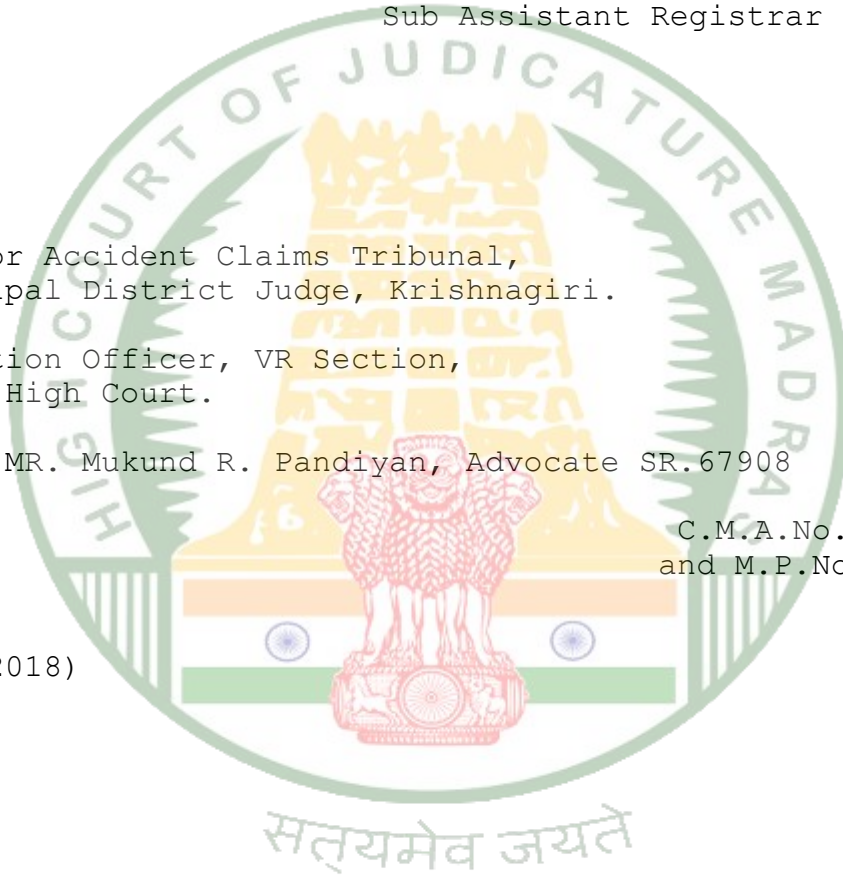
1.The Motor Accident Claims Tribunal,
Principal District Judge, Krishnagiri.

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

+ 1 cc to MR. Mukund R. Pandiyan, Advocate SR.67908

C.M.A.No.929 of 2012
and M.P.No.1 of 2012

RJ(CO)
EU(08/11/2018)



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