



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1056 of 2008

The Managing Director
Tamil Nadu State Express Transport
Corporation Chennai

... Appellant/Respondent

..Vs..

1.Mahalakshmi
2.Usha
3.Venkatesan
4.Gobu
5.Malika
6.Kanaka

...Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award made in MCOP No.44 of 2005 dated 26.12.2006 on the file of the Motor Vehicles Accident Claims Tribunal and Sub Court at Maduranthagam.

For Appellant : Mr.K.J.Sivakumar

For Respondents: No appearance

J U D G M E N T

The instant appeal has been filed by the Appellant Transport Corporation challenging the Award dated 26.12.2006 passed by the Motor Accident Claims Tribunal cum Sub Court, at Maduranthagam in MCOP No.44 of 2005.

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

2. One Subramania Pillai died on 24.02.2004, as a result of an accident caused by a bus bearing Registration No.TN21-N-6153 owned by the Appellant Transport Corporation. The dependents of the deceased Subramania Pillai are the respondents in the



instant appeal and they preferred a compensation claim before the Motor Accident Claims Tribunal in M.C.O.P.No.44 of 2005 seeking a compensation of Rs.5,50,000/- which was restricted to Rs.3,50,000/- against the Appellant Transport Corporation. The Motor Accident Claim Tribunal by its Award dated 26.12.2006 passed in M.C.O.P.No. 44 of 2005, directed the appellant to pay the respondents a sum of Rs.1,89,800/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization .

3. Aggrieved by the Award dated 26.12.2006 passed by the Motor Accident Claims Tribunal, in M.C.O.P.No.44 of 2005 the instant appeal has been filed by the Appellant Transport Corporation.

4. Heard Mr.K.J.Sivakumar, learned counsel for the Appellant. There is no representation on the side of the respondents. Till date notice has not been served on the respondents. Since the appeal pertains to the year 2008 and this Court is going to confirm the award, there is no necessity to serve the notice on the respondents.

5. According to the learned counsel for the Appellant, the grounds raised in the instant appeal are as follows:

a) The Tribunal erroneously fixed the negligence on the appellant's driver who drove the bus .

b) The Tribunal failed to consider the fact that the respondents did not produce the age proof of the deceased.

c) The Tribunal failed to consider that the married daughter cannot claim any compensation as she is not the dependent of her father.

d) The Tribunal failed to consider that the major son's employment status was not furnished in the claim petition.

e) The Tribunal erred in deducting 1/3rd towards personal expenses while assessing the compensation under the head loss of income.

6. This Court after having considered the materials available on record and after examining the impugned Award and after hearing the submissions of the learned counsel for the Appellant observes the following:

a) It is an undisputed fact that Subramania Pillai died on 24.02.2004 as a result of an accident caused by a bus bearing registration No.TN21-N-6153 owned by the Appellant Transport Corporation.

b) The Tribunal has given a categorical finding based on the materials available on record, that 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 Subramania Pillai.

c) Before the tribunal, the respondents have filed the death certificate of the deceased which was marked as Ex.P3 and legal heirship certificate which was marked as Ex.P4. The legal heirship certificate clearly reveals that the respondents are the legal heirs of the deceased Subramania Pillai. It has also been the consistent stand of the respondents that they are the dependents of the deceased Subramania Pillai. No contra evidence has been produced by the Appellant Transport Corporation before the tribunal to disprove the stand of the respondents that they are the dependents of the deceased Subramania Pillai.

d) The deceased Subramania Pillai was running a hotel business at the time of the accident and in the claim petition filed by the respondents, they had disclosed that the deceased was earning a monthly salary of Rs.5,000/- at the time of the accident. But the tribunal under the impugned award has assessed the monthly salary of the deceased only at Rs.2,100/- without any basis.

e) The Tribunal has passed a considered and well reasoned award.

f) No documents were marked as exhibits on the side of the Appellant by the tribunal. No oral evidence was also let in by the appellant before the tribunal to disprove the claim of the respondents. Even though the respondents had made a claim for a sum of Rs.5,50,000 which was restricted to Rs.3,50,000/-, the tribunal has awarded only a sum of Rs.1,89,800/- in favour of the respondents.

g) Since there are six dependents, the Tribunal ought to have deducted 1/4th towards the personal expenses of the deceased that may be incurred for maintaining himself, if he had been alive, whereas the Tribunal under the impugned Award has deducted 1/3rd towards the personal expenses of the deceased.

7. In the light of the above observations, this court is of the considered view that the compensation awarded to the respondents under the impugned Award is a just compensation and there is no merit in the instant appeal. Accordingly the appeal is dismissed. However, there shall be no order as to costs.

8. The Appellant is directed to deposit the amount awarded by the Tribunal together with interest, after deducting the amount that has already been deposited by them, to the credit of MCOP No.44 of 2005 on the file of the Motor Accident Claims Tribunal and Sub Court at Maduranthagam, within a period of four weeks from the date of receipt of a copy of this Order. On such



deposit being made, the respondents are permitted to withdraw the amount lying to the credit of MCOP No.44 of 2005 on the file of the Motor Accident Claims Tribunal and Sub Court at Maduranthagam along with accrued interest by filing an appropriate application.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kyl/nl
To

1.The Motor Accident Claims Tribunal (Sub Court)
Maduranthagam

C.M.A.No.1056 of 2008

ca(co)
nr 04/12/2018