IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1272 of 2008
and
M.P.No.1 of 2008

The Managing Director,
TamilNadu State Transport Corporation Ltd.,
Dharmapuri.
Formerly known as
Annai Sathya Transport Corporation. ..Appellant/Respondents

Vs

1.Vasukiammal
2.Tamilarasan
3.Poosanaammal ..Petitioners 1to3/
Respondents 1 to 3

4.Elilarasan ..Respondent/Respondent-4

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree passed by the Motor Accidents Claims Tribunal, (Additional District and Sessions Court), Fast Track Court, Vellore in M.C.O.P.No.121 of 2004 dated 13.04.2006.

For Appellant : Mr.D.Venkatachalam

For Respondents : Not ready in Notice regarding R1 to R4

J U D G E M E N T

The instant appeal has been filed by the Transport Corporation challenging the Award dated 13.04.2006, passed by the Motor Accidents Claims Tribunal, (Additional District and Sessions Court), Fast Track Court, Vellore in M.C.O.P.No.121 of 2004.

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

(i)One Gangadharan died on 23.06.2002 as a result of an accident caused by a bus bearing Registration No.TN-29-N-1334 owned by the appellant Transport Corporation. The dependants of the deceased Gangadharan are the respondent Nos.1 to 3 in this appeal. They preferred a claim before the Motor

Accidents Claims Tribunal in M.C.O.P.No.121 of 2004 seeking compensation of Rs.15 lakhs for the death of Gangadharan.

(ii) The Motor Accidents Claims Tribunal, by its Award dated 13.04.2006 in M.C.O.P.No.121 of 2004 directed the Appellant to pay the respondents 1 to 3 a sum of Rs.7,76,391/- together with interest at the rate of 7.5%, per annum from the date of claim till the date of realisation.

3.Aggrieved by the Award dated 13.04.2006 passed in M.C.O.P.No.121 of 2004, the instant appeal has been filed by the Transport Corporation.

4.Heard, Mr.D.Venkatachalam, learned Counsel for the appellant. Till date the notice in this appeal has not been served on the respondents. Since the appeal relates to the year 2008, and this Court is going to confirm the Award, there is no necessity for the appellant to serve the notice on the respondents.

5.According to the learned counsel for the Appellant, the Tribunal has erroneously held that the driver of the appellant's bus was at fault which resulted in accident. Further, the learned counsel would contend that the Tribunal has erroneously assessed the income of the deceased at the time of the accident at Rs.7,273/-. The learned Counsel further contended that the Tribunal erred in granting Rs.5000/- towards loss of love and affection to the respondents 1 to 3 which is excessive.

6.This Court has examined the impugned Award. It is an undisputed fact that Gangadharan died as a result of the accident caused by a bus owned by the appellant. At the time of his death, the deceased was aged 50 years and was employed with Tamil Nadu Electricity Board, Gandhi Nagar, Vellore - 632 006 as an Accounts Supervisor. This fact has not been disputed by the appellant before the Tribunal. At the time of the accident, the deceased was earning a monthly income of Rs.7,273/- and the respondent 1 to 3 have also filed a pay certificate before the Tribunal which has been marked as Ex-P.6. Being a Government servant and having filed Ex.6, the Tribunal has rightly accepted the monthly income of the deceased at the time of the accident as Rs.7,273/-. Therefore, the appellant cannot question the assessment of the monthly income of the deceased at the time of the accident in this appeal.

7.The Tribunal has given a clear finding based on the oral and documentary evidence submitted by both the parties to dispute 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 Gangadharan.

8.The respondents 1 to 3 have filed 10 documents which have been marked as Exs.P.1 to P.10 in support of their claim and they have also examined three witnesses R.W.1 to R.W.3 before the Tribunal. On the side of the appellant only one document was marked and only one witness was examined. Even though the respondents 1 to 3 had made a claim for Rs.15,00,000/- before the Tribunal, the Tribunal has awarded a compensation of only Rs.7,76,391/- in favour of the respondents 1 to 3. The compensation of Rs.5,000/- awarded towards loss of love and affection is also a just compensation.

9.No contra evidence has been produced by the appellant before the Tribunal to disprove the fact that the deceased Gangadharan was earning a monthly income of Rs.7,273/- as a Supervisor with Tamil Nadu Electricity Board at the time of the accident and the interest awarded by the Tribunal is also in accordance with the settled principles of law.

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 is closed.

11. The Appellant is directed to deposit the Award amount together with interest, after deducting the amount that has already been deposited, to the credit of M.C.O.P.No.121 of 2004 on the file of the Motor Accident Claims Tribunal, (Additional District and Sessions Court), Fast Track Court, Vellore, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the respondents 1 to 3 are permitted to withdraw the amount lying to the credit of M.C.O.P.No.121 of 2004 on the file of the Motor Accident Claims Tribunal, (Additional District and Sessions Court), Fast Track Court, Vellore by filing an appropriate application.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

at/arb

To

The Additional District and Sessions Court,
Fast Track Court,
The Motor Accidents Claims Tribunal,
Vellore.

+ 1 cc to MR. D. Venkatachalam, Advocate SR.63575

C.M.A.No.1272 of 2008

VBA(CO)
EU(31/10/2018)