

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1604 of 2008

Managing Director,

Tamil Nadu State Transport Corporation Ltd.,
Dharmapuri.

...Appellant/II Respondent

Vs

1. M.Madhu
2. M.Chinna Kutti
3. Chinna Pappa
4. Jagadha
5. Nagammal

...Respondents 1 to 5/ Petitioners 1 to 5

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed on 13.09.2005 in M.C.O.P.No.225 of 2001 on the file of the Additional District Judge, Dharmapuri.

For Appellant : Mr.D.Venkatachalam

For Respondents : R1 - No Appearance
Mr.S.Arunkumar (for R2)

J U D G M E N T

The instant appeal has been filed by the Transport Corporation, challenging the Award dated 13.09.2005, passed by the Motor Accident Claims Tribunal (Additional District Judge, Dharmapuri) in M.C.O.P.No.225 of 2001.

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

(i)The deceased Nagammal was travelling as a pillion rider in a motor cycle TVS 50 bearing registration No.TN 29 D 0994.

(ii)Nagammal died on 12.09.2000, as a result of an accident caused by a bus bearing registration No.TN 29 N 1004 owned by the Appellant Transport Corporation. The dependents of the deceased Nagammal who are the respondents 1 to 5 in the instant

appeal preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.225 of 2001 seeking a compensation of Rs.8,61,000/- which are restricted to Rs.3,00,000/- for the death caused to Nagammal as a result of the accident.

(iii)The Motor Accident Claims Tribunal by its Award dated 13.09.2005 in M.C.O.P.No.225 of 2001 directed the Appellant Transport Corporation to pay the respondents 1 to 5 a sum of Rs.1,70,000/- together with interest at 7.5% p.a. from the date of the claim till the date of realization.

3.Aggrieved by the Award dated 13.09.2005, the instant appeal has been filed by the Transport Corporation.

4.Heard Mr.D.Venkatachalam, learned Counsel for the Appellant and Mr.S.Arunkumar learned Counsel for the second respondent. Even though the name of the learned counsel for the first respondent is mentioned in the cause list today, none appears on the side of the respondent.

5.The grounds for challenge raised in this appeal are as follows:-

a.The Tribunal erred in holding that the driver of the Appellant bus was rash and negligent and was responsible for the accident.

b.The Tribunal erred in presuming the age of the deceased as 50 years and the income of the deceased as Rs.1,250/- per month without any proof.

c. The Tribunal erred in granting Rs.1,65,000/- towards loss of income for the respondents No.1 to 5 due to the death of Nagammal.

d.The Tribunal erred in granting Rs.5,000/- towards funeral expenses.

e.The Tribunal ought to have held that TVS 50 rider was entirely responsible for the accident.

f.The Tribunal ought to have held that the claim petition is not maintainable on the ground of the non joinder of the owner and the insurer of the TVS 50 motor cycle.

6.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 involvement of the bus, in the accident resulting in the death of Nagammal is not disputed by the Appellant Transport Corporation before the Tribunal.

b) The Tribunal has given a categorical finding that the bus owned by the Appellant Transport Corporation is alone at

fault.

c) FIR was also registered only against the driver of the bus owned by the Appellant Transport Corporation. The deceased Nagammal was a vegetable vendor. At the time of the accident, in the claim petition filed by the respondents No.1 to 5, they have claimed that the deceased Nagammal was earning a monthly income of Rs.3,000/- . No contra evidence has been produced by the Appellant Transport Corporation before the Tribunal to disprove the claim of the respondents No.1 to 5.

d) Even though the respondents No.1 to 5 had disclosed that the deceased was earning monthly salary of Rs.3,000/-, the Tribunal has assessed the annual income of the deceased at Rs.15,000/- only which works out to only Rs.1,250/- per month.

7.The Tribunal has awarded only Rs.5,000/- towards funeral expenses and has not awarded compensation to the respondents No.1 to 5 under various other heads as per the decisions of the Hon'ble Supreme Court reported in the case of Sarla Verma and others vs Delhi Transport Corporation and another reported in 2009 ACJ 1298 and National Insurance Company Limited versus Pranay Sethi and others reported in 2017(2) TN MAC 609(SC).

8.In the considered view of this Court, the compensation awarded by the Tribunal and the impugned Award is not an unreasonable one. Therefore, there is no merit in the instant appeal. Accordingly, the appeal is dismissed.

Sd/-

Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

AT

To

1.The Additional District Judge,
Dharmapuri.

+1cc to Mr.D.Venkatachalam, Advocate SR.No.60708

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GMV (17/10/2018)