

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.752 of 2018
and C.M.P.No.6377 of 2018

APSRTC,
Rep.by its Managing Director
RTC bus Dippo
Mushereabad, Hyderabad
Andhrapradesh.

.. Appellant

Vs.

1.Bujjamma
2.Dhanakumar
3.Subhashini

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 03.03.2016 made in M.C.O.P.No.6 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Vaniyambadi.

For Appellant : Ms.G.V.Shoba

For R1 to R3 : Mr. V.Parivallal

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the award dated 03.03.2016 made in M.C.O.P.No.6 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Vaniyambadi.

2.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents and perused the materials available on record.

3.The appellant is respondent and respondents are the claimants in M.C.O.P.No.6 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Vaniyambadi. The respondents filed the said claim petition claiming a sum of Rs.20,00,000/- as compensation for the death of one Bhemmy Setty Subbarayadu, who died in the accident that took place on

17.12.2010.

4. According to the respondents, while the deceased Subbarayadu was travelling in the bus belonging to the appellant/Transport Corporation, the driver of the bus drove the bus in a rash and negligent manner and applied sudden brake. Due to the said impact, the said Subbarayadu sustained injuries and died in the hospital.

5. The appellant/Transport Corporation filed counter statement and denied the averments made in the claim petition and contended that the driver of the bus drove the bus in a careful manner and suddenly, a pig came across the road and the driver applied sudden brake. The deceased sustained only simple injuries. Therefore, he prayed for dismissal of the claim petition.

6. From the materials available on record, it is seen that the Tribunal has not considered the averments made in the claim petition as well as in the counter statement. On the other hand, the Tribunal has considered the facts relating to some other accident involving one Rajendran, who was driving the motorcycle and dashed against the bi-cycle and caused the accident. Considering the entire discussions, it is clear that the Tribunal has not applied its mind to the facts and circumstances of the case, but extracting facts of some other case, passed award and committed perversity.

7. In view of the same, the award of the Tribunal dated 03.03.2016 made in M.C.O.P.No.6 of 2012 is set aside and the matter is remanded back to the Tribunal for fresh consideration. The Tribunal is directed to dispose of M.C.O.P.No.6 of 2012 on merits and in accordance with law, based on the available materials, within a period of three months from the date of receipt of the bundle. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

kj

To

The Motor Accident Claims Tribunal, Sub Court, Vaniyambadi.

Copy To : The Section Officer, VR Section, High Court, Madras.

+1cc to Ms.G.V.Shoba, Advocate SR.No.178956

+1cc to Mr.V.Parivallal, Advocate SR.No.78711

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CP (CO)
GMY (24/01/2019)



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