

In the High Court of Judicature at Madras

Dated : 25.10.2018

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The Honourable Mr. Justice K.K. SASIDHARAN
AND
The Honourable Mr. Justice R. SUBRAMANIAN

C.M.A.No.2455 of 2018
and C.M.P.No.18767 of 2018

The Managing Director,
State Express Transport Corporation,
Thiruvalluvar House,
Pallavan Salai,
Chennai

... Appellant/Respondent

..vs..

1. Parvathi
2. Selvam
3. Sakthi
4. Kaliammal
5. Vennila
6. Kali (died)
7. Pappa

(Petition amended as per order
in IA No.1170/2017 dated 08.08/2017) ... Respondents

Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in MCOP No.1989 of 2014 dated 16.11.2017 on the file of Motor Accidents Claims Tribunal, The Special District Judge (MACT), Dharmapuri.

For Appellant : Mr.J. Lokesh

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JUDGMENT

(Judgment of the Court was delivered by R. SUBRAMANIAN, J.)

The State Express Transport Corporation challenges the award passed by the Motor Accidents Claims Tribunal, The Special District Judge (MACT), Dharmapuri in MCOP No.1989 of 2014 dated 16.11.2017, in and by which, the dependents of one Kalirathinam, who died in a motor accident that occurred on 10.05.2014 were

awarded a sum of Rs.14,67,760/- as compensation for the death of the said Kalirathinam.

2. According to the claimants, while the said Kalirathinam was riding a Hero Honda Splender Plus motorcycle bearing Registration No.TN-29-AD-0540 on Salem-Krishnagiri road near Mel Mattukaranur Junction road, a bus, bearing Registration No.TN-01-AN-0594, belonging to the appellant transport corporation, driven by its driver in a rash and negligent manner, dashed against the motorcycle, resulting in the death of the rider of the two wheeler.

3. In order to prove their claim, the claimants examined P.W.1 to P.W.3 and marked Exs.P.1 to P.11. On the side of the appellant-Transport Corporation one K. Chinnadurai was examined as R.W.1 and Exs.R.1 and R.2 were marked.

4. On the complaint given by the driver of the bus, case was registered against the said Kalirathinam and the same was referred as "abated".

5. The Tribunal had taken into account the evidence on record particularly, the evidence of P.W.1 and came to the conclusion that it was the driver of bus whose negligence was the cause for the accident.

6. We have heard Mr.J. Lokesh, learned counsel for the appellant and perused the judgment of the Tribunal.

7. We do not find any error in the conclusion arrived at by the Tribunal. The driver of the bus, in his cross examination, had deposed that it was an express bus and it could be driven upto a speed of 70 km per hour. Taking into account that the accident had occurred on the Krishnagiri-Salem National Highway, the Tribunal has rightly concluded that it was the negligence on the part of the driver of the bus, which caused the accident. Even though first information report was lodged against the deceased, we do not see any reason to interfere with the conclusion arrived by the Tribunal, particularly, in view of the fact that the first information report was lodged at the instance of the driver of the bus.

8. With regard to quantum, we find that the Tribunal had taken the income of the deceased as Rs.6,500/-per month and added 40% towards future prospects and also applied correct multiplier "16" as per the observations of the Hon'ble Supreme Court in Sarla Verma and Others vs Delhi Transport Corporation and another reported in 2009 (2) TNMAC 1.

9. In view of the above, we do not find any infirmity in the Award passed by the Tribunal. Therefore, the Civil Miscellaneous Appeal fails and the same is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

10. The appellant Transport Corporation is directed to deposit the amount awarded by the Tribunal within a period of eight weeks from the date of receipt of a copy of this order.

11. On such deposit, the claimants are permitted to withdraw their respective shares, as per the apportionment made by the Tribunal.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sr

To

1. The Motor Accidents Claims Tribunal/
Special District Judge (MACT), Dharmapuri.

2. The Section Officer,
V.R.Section, High Court, Madras.

+1 cc to Mr.K.J.Sivakumar, Advocate Sr.No.73534

C.M.A.No.2455 of 2014

BR(CO)
CSL/05.12.2018

सत्यमेव जयते

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