

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2953 of 2018 and
C.M.P.No.22363 of 2018

M/s.Tamil Nadu State Transport

Corporation (Division - I) Ltd.,
Represented by its Managing Director,
37, Mettupalayam Road,
Coimbatore.

... Appellant / 3rd Respondent

Vs.

1.T.Subramani
2.Minor.S.Kiruthika
3.Minor.S.Jayakumar

... Respondents 1 to 3 /
Claimants

4.A.Velusamy,
C/o. The Managing Director,
Tamil Nadu State Transport Corporation (Division - I) Ltd.,
37, Mettupalayam Road,
Coimbatore.

5.D.Krishnaraj,
C/o. The Managing Director,
Tamil Nadu State Transport Corporation (Division - I) Ltd.,
37, Mettupalayam Road,
Coimbatore.

... Respondents 4 & 5 /
Respondents 1 & 2

(Minor respondents 2 and 3 are represented by their
guardian/next friend father T.Subramani)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of
Motor Vehicles Act, 1988, against the judgment and decree dated
03.04.2014 made in M.C.O.P.No.44 of 2011 on the file of the
Motor Accidents Claims Tribunal, IV Additional District and
Sessions Judge, Coimbatore.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the award
dated 03.04.2014 made in M.C.O.P.No.44 of 2011 on the file of

the Motor Accidents Claims Tribunal, IV Additional District and Sessions Court, Coimbatore.

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

3. The appellant is third respondent in M.C.O.P.No.44 of 2011 on the file of the Motor Accidents Claims Tribunal, IV Additional District and Sessions Court, Coimbatore. The respondents 1 to 3 filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the death of one Smt.Nagarathinam, who died in the accident that took place on 24.03.2008.

4. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus, the fourth respondent herein, belonging to the appellant-Transport Corporation and directed the respondents 4, 5 and the appellant-Transport Corporation to pay a sum of Rs.4,85,000/- as compensation to the respondents 1 to 3/claimants. Challenging the said award dated 03.04.2014, made in M.C.O.P.No.44 of 2011 granting compensation to the respondents 1 to 3, the appellant-Transport Corporation has come out with the present appeal.

5. The contention of the learned counsel appearing for the appellant-Insurance Company that the Tribunal erred in fixing negligence on the part of the driver of the bus belonging to the appellant-Transport Corporation and erred in considering the evidence of P.W.1/husband of the deceased, who had not seen the accident. The Tribunal erred in fixing the liability on the part of the appellant-Transport Corporation and erred in fixing a sum of Rs.45,000/- as annual income of the deceased without any proper evidence to prove the income of the deceased. The above contentions are without merits. From the materials on record, it is seen the Tribunal considered the evidence of P.W.2/eye-witness, who travelled along with the deceased as co-passenger, held that the accident occurred only due to rash and negligent driving by the driver of the bus, the fourth respondent herein and held that the appellant-Transport Corporation as well as the respondents 4 and 5 are liable to pay compensation to the respondents 1 to 3/claimants. The Tribunal fixed the age of the deceased as 41 years as per the postmortem report/Ex.A3 and fixed a sum of Rs.45,000/- as notional income per annum. After deducting 1/3rd towards her personal expenses and applying multiplier '15', awarded a sum of Rs.4,50,000/- ($\text{Rs.45,000/-} \times \frac{2}{3} \times 15 = \text{Rs.4,50,000}$) as compensation towards loss of income and the compensation awarded by the Tribunal under different heads are just compensation and not excessive. I do not find any reason warranting interference by this Court.

6.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.4,85,000/- awarded by the Tribunal as compensation to the respondents 1 to 3, along with interest and costs is hereby confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.44 of 2011. On such deposit, the first respondent is permitted to withdraw his share of the award amount along with interest and costs, on the basis of apportionment fixed by the Tribunal after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. The award amount of the minor respondents 2 and 3 is directed to be deposited in any one of the Nationalized Bank, till they attains majority. The first respondent, being the father of the minor respondents 2 and 3 is permitted to withdraw the accrued interest once in every three months for the welfare of the minor respondents. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

krk

To

1.IV Additional District and Sessions Judge,
Motor Accidents Claims Tribunal,
Coimbatore.

2.The Section Officer,
VR Section,
High Court, Madras.

सत्यमेव जयते

+1 cc to Mr.K.J.Sivakumar, Advocate, S.R.No.89761

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C.M.A.No.2953 of 2018 and
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SV(CO)
SSM(28/03/2019).