



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.1242 of 2017

and

CMP(MD) Nos.12020 of 2017 & 2365 of 2018

Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Vannarpettai,
Tirunelveli - 3.
through its Managing Director

... Appellant/Respondent

Vs.

1. Poornakala
2. Minor G.Subajeyanthi
3. Minor G.Subash Karthick
(Minor Respondents 2 & 3 are represented
through their mother and natural guardian,
the 1st respondent herein)

4. Nallathai ... Respondents/Petitioners

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 06.04.2017, passed in M.C.O.P.No.1055 of 2015 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tirunelveli.

For Appellant : Mr.P.Prabhakaran
For Respondents : Mr.S.P.Maharajan

JUDGMENT

This civil miscellaneous appeal has been filed challenging the award passed by the learned Special Sub Judge, Motor Accidents Claims Tribunal, Tirunelveli in M.C.O.P.No.1055 of 2015, dated 06.04.2017.

2. Heard the learned Counsel appearing on either side and perused the records carefully.

3. It is a case of fatal and the tribunal has awarded a sum of Rs.41,50,000/- as compensation, fixing the liability as 70:30 on the appellant and the deceased, thereby, directed the appellant to pay 70% of the compensation amount being Rs.29,05,000/- against



which, the Appellant/Transport Corporation company is before this Court.

4. Though several grounds are raised in the memorandum of grounds, the main grounds on which the appellant Corporation has filed this appeal are on negligence and quantum.

5. The learned Counsel for the appellant submitted that the Tribunal failed to fix the entire negligence on the deceased, who was working as a conductor of the bus, on the following aspects, viz., much carelessness in the duty, standing in front of door steps, without holding the iron bars while issuing tickets to the passengers. On the date of accident, due to his own negligence, the deceased fell outside of the bus through the front door way and invited the accident and therefore, the deceased alone was solely responsible for the accident and the appellant is not liable to pay compensation to the respondents/claimants.

6. The learned Counsel for the appellant attempted to argue that if the deceased would have been more vigilant by holding the bar of the bus while issuing tickets, he would not have been thrown out from the bus and therefore, the learned Judge ought not to have fixed 70% of liability on the driver of the bus. The learned Counsel for the appellant also contended that on various heads, the higher amount has been given and therefore, prayed for interference of this Court.

7. The learned Counsel for the respondent submit that the deceased is the Conductor of the appellant-Transport Corporation and the deceased is their own employee and while travelling in the bus as a conductor, the driver applied sudden brake, due to which, the Conductor was thrown out from the bus and sustained injuries. He would further submit that when the learned Judge has found that the driver of the bus was the cause for the accident, he ought not to have fixed 30% negligence on the part of the deceased. He would further submit that the Conductor cannot issue tickets by holding the bar.

8. In my considered opinion, as rightly pointed out by the learned Counsel for the respondents, the Conductor cannot issue tickets by holding the bar. However, after elaborate arguments, both counsel agreed that the award may be confirmed by deleting the award towards loss of love and affection to the wife. Accordingly, the award towards loss of love and affection to the wife is deleted. The award under all other heads are confirmed.

9. Accordingly, this civil miscellaneous appeal is partly allowed and

- the compensation awarded by the tribunal is reduced and the total award amount is fixed at Rs.40,50,000/- [RS.41,50,000/- awarded by the tribunal - Rs.1,00,000/- decreased by this Court towards loss of consortium].



- The appellant/Transport Corporation is directed to deposit 70% of the award amount i.e. a sum of Rs.28,35,000/- [Rupees Twenty Eight Lakhs and Thirty Five Thousand only] towards compensation with interest @ 7.5% per annum and costs, less the sum already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment.
- On such deposit, the respondents/claimants are permitted to withdraw their shares with proportionate accrued interests and costs in the ratio fixed by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.
- The Tribunal is directed to deposit the shares of the minor children in a nationalized bank until they attains majority. The first respondent herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months.
- There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Special Subordinate Judge,
Motor Accidents Claims Tribunal,
Tirunelveli.

Copy To:-

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.S.P.MAHARAJAN, ADVOCATE IN SR No. 63712
+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 63735

RM

TE/SKN-RSK/SAR-2 : 02/07/2018 : 3P/6C

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26.04.2018