

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.1599 of 2003

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram Division III) Ltd.,
Kancheepuram.

(Formerly known as Puratchi Thalaivar
MGR Transport Corporation,
Kancheepuram)

(Cause title accepted vide order dated
16.06.2003 made in CMP.No.7256/03)

... Appellant/2nd Respondent

..vs..

1. Munirathinam Naidu

...Respondent/Petitioner

2. K.Velu

(Given Up)

... Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act,
1988, against the judgment and decree dated 04.04.2002 and
made in MCOP.No.70 of 1997 on the file of Motor Accident
Claims Tribunal (Fast Track Court) Kancheepuram.

For Appellant : Mr.G.Muniratnam

R1

- Not Ready Notice

R2

- Given up

WEB COPY
J U D G M E N T

The appellant Transport Corporation has filed this appeal
as against the judgment and decree dated 04.04.2002 passed by
the Motor Accident Claims Tribunal (Fast Track Court)
Kancheepuram, in MCOP.No.70 of 1997.

2.The case in brief is as follows:

On the fateful day, i.e., on 22.10.1995 at about 6.30
p.m., one Lakshmi was travelling as a passenger in the
appellant Transport Corporation bus bearing Registration
No.1N23-N-0391. When she was stepping down the bus at

Kanakamma Chathiram, the driver of the vehicle, without noticing the same, started the bus. Due to the same, the said passenger fell down from the bus and the wheel of the vehicle ran over her right leg. Immediately, she was admitted to Thirutani Government Hospital, where she died despite treatment. Stating that the accident had occurred due to the rash and negligent act on the part of the driver of the bus, the husband of the deceased filed a claim petition claiming a compensation of Rs.5,00,000/-. The Tribunal on consideration of the materials and evidence available on record, has awarded a total compensation of Rs.1,03,300/- with interest at 9%pa from the date of claim petition. Aggrieved over the same, the appellant Transport Corporation has preferred this appeal.

3.The learned counsel for the appellant submitted that without considering the evidence of RW1/driver of the bus, the Tribunal has erred in fixing the entire contributory negligence on the part of the driver of the bus. The learned counsel also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

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

5.Though this appeal was admitted way back in the year 2003, the appellant has not taken proper steps to serve papers on the other side even at this length of time. However, due to paucity of time, this Court is inclined to proceed with this appeal on merits.

6.On a perusal of the award, it could be seen that P.W.2/eye witness to the occurrence, in his evidence has stated that on 22.10.1995, when he was standing near the Police Station at Kanakamma Chathiram Bazaar, a bus bearing Route No.97C was coming from Tiruttani to Chennai and the deceased was trying to get down from the bus and without noticing the same, the driver of the bus started moving and due to the same, the deceased fell down and the backside wheel of the bus ran over the leg of the deceased. The testimony of P.W.2 was corroborated by Ex.P1 First Information Report, which was lodged by the deceased. Though the driver of the bus was examined as R.W.1, according to whom, the deceased herself fell down and invited the accident, no oral and documentary evidence was adduced to substantiate his evidence. Hence, the Tribunal has rightly concluded that the accident had taken place, due to the rash and negligent act on the part of the driver of the bus, which finding this Court is not inclined to interfere.

7.As regards the quantum of compensation, in the absence of any evidence as to the avocation and income of the deceased, the Tribunal has taken the annual income at Rs.5,400/- (Rs.450 x 12) and adopted the multiplier of 17 by taking her age as 30 years and quantified the compensation

towards loss of income to her family at Rs.91,800/-. Apart from that, the Tribunal has awarded Rs.2,000/-, Rs.2,500/-, Rs.5,000/- and Rs.2,000/- towards Transport Expenses, loss of estate, loss of consortium and funeral expenses, respectively. This Court is of the considered view that the quantum so arrived at by the Tribunal is just and reasonable as the same is based on the materials and evidence adduced by the first respondent/claimant and hence, the same need not be interfered.

8.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Transport Corporation is directed to deposit the entire compensation amount, along with interest and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the same to the bank account of the first respondent/claimant, within a period of one week thereafter.

Sd/-

Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

vv/rk

To

1.Motor Accident Claims Tribunal
(Fast Track Court) Kancheepuram.

2.The Section Officer, V.R.Section,
Madras High Court, Chennai 104.

+1cc to Mr.G.Muniratnam, Advocate SR.No.47749

C.M.A.No.1599 of 2003

PVS (CO)

GMV (17/08/2020)

WEB COPY