

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.1747 of 2006

and

C.M.P.No.7956 of 2006

Andrapradesh State Road Transport Corporation,
rep.by its Manager,
Hyderabad.

... Appellant/Respondent

Vs.

1.Chinnaraj
2.Kasthuri
3.Mokiliammal

... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 02.03.2001 passed in M.C.O.P.No.596 of 1996 on the file of the Motor Accident Claims Tribunal / Sub Court, Vellore.

For Appellant : Mrs.G.V.Shoba

For Respondents : No appearance

J U D G M E N T

The appellant is the respondent in M.C.O.P.No.596 of 1996 on the file of the Motor Accident Claims Tribunal / Sub Court, Vellore. The respondents filed the claim petition under Section 163 (A) of the Motor Vehicles Act, 1988, seeking compensation of Rs.3,00,000/- for the death of one Babu, who is the son of claimants 1 and 2 and brother of the third claimant, who died in a road accident that took place on 10.04.1996.

2.The case of the claimants is that on 10.04.1996, the deceased Babu was traveling as a passenger in a bus bearing Registration No.AP 9 8534 belonging to the appellant and was proceeding towards Bangarupalli from Chittoor. When the bus was nearing a check post at Iruvaram, the deceased requested the conductor to stop the bus as he wanted to get down from the bus. The conductor gave a whistle and before the deceased could alight the bus, the driver of the bus moved the bus rashly and negligently, as a result of which, the deceased fell down and sustained fatal injuries and died on the spot.

According to the claimants, the rash and negligent driving of the driver of the bus belonging to the appellant was the cause of the accident and therefore the appellant is liable to pay compensation.

3.The learned Subordinate Judge, Motor Accidents Claims Tribunal, Vellore after analyzing the evidence on record, awarded a compensation of Rs.2,01,500/- together with interest at the rate of 12% per annum to the claimants. Aggrieved over the quantum of compensation awarded by the Tribunal, the respondent / Andrapradesh State Road Transport Corporation has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4.Mrs.G.V.Shoba, learned counsel appearing for the appellant contended that since the deceased alighted the moving bus, the Tribunal was wrong in fixing the negligence on the part of the driver of the bus.

5.No appearance on behalf of the respondents.

6.At the outset, it may be observed that the claim petition has been filed under Section 163 (A) of the Motor Vehicles Act, 1988. As per Section 163 (A) (2) of the Motor Vehicles Act, 1988, the claimants are not required to plead or establish that the death or permanent disability in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person. The Tribunal without advertting its attention to Section 163 (A) (2) of Motor Vehicles Act, fixed negligence on the part of the driver of the bus. In the instant appeal, the negligence aspect cannot be taken up as an issue by the appellant, since the claim petition is filed under Section 163 (A) of the Motor Vehicles Act, 1988. As far as the quantum of compensation is concerned, no arguments were advanced by the learned counsel for the appellant and a perusal of order passed by the Tribunal shows that a just compensation was awarded which does not warrant any interference.

7. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

(ii) The orders passed by the Tribunal is upheld.

(iii) The appellant / Andrapradesh State Road Transport Corporation is directed to deposit the compensation awarded by the Tribunal i.e., Rs.2,01,500/- (less the amount already deposited) together with interest at the rate of 12% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.596 of 1996 on the file of the Motor Accident Claims Tribunal / Sub Court, Vellore within

a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the respondents / claimants are at liberty to withdraw the same after following due process of law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

krk

To

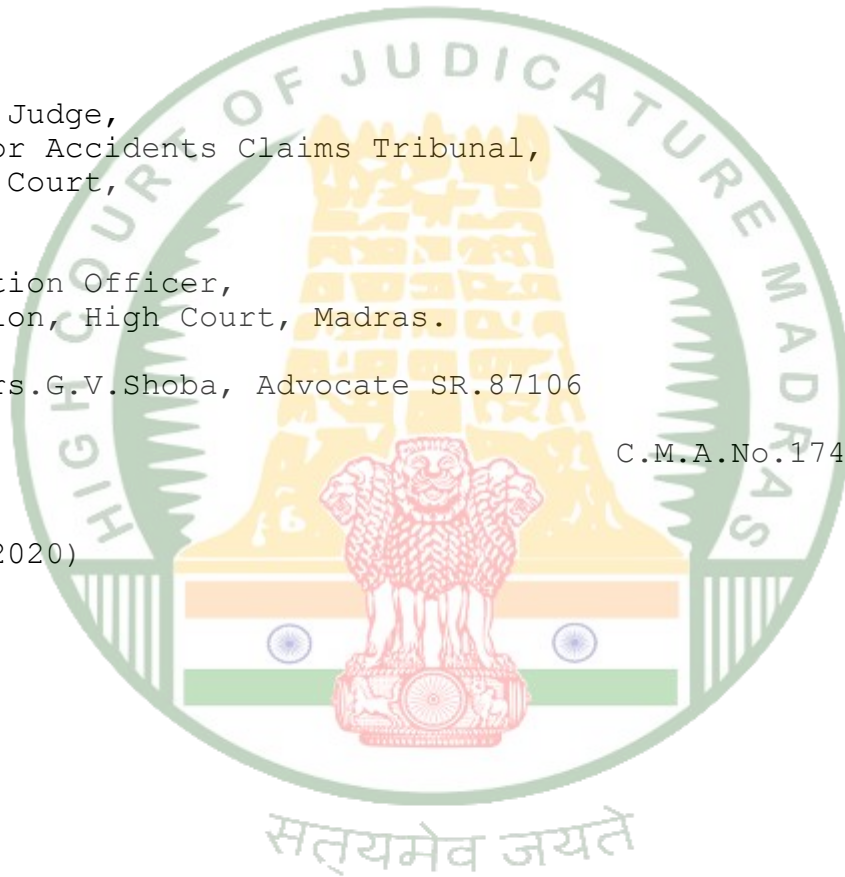
1.The Sub Judge,
The Motor Accidents Claims Tribunal,
The Sub Court,
Vellore.

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

+1cc to Mrs.G.V.Shoba, Advocate SR.87106

C.M.A.No.1747 of 2006

BR(CO)
CB(09/01/2020)



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