



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3846 of 2004
and C.M.P.No.20532 of 2004

Tamil Nadu State Transport Corporation Limited
Coimbatore, rep.by its
Managing Director.

... Appellant

Vs

1.K.Rakkamuthu
2.M.Krishnasamy
3.S.Nagaraj
4.United India Insurance Co.Ltd.
Pollachi.

... Respondents

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 25.02.2004 made in MCOP No.171 of 2003 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Coimbatore.

For Appellant : Mr.S.V.Vasanthakumar

For Respondents: Ms.A.L.Ganthimathi for R1
No appearance for R2 and R3
Ms.R.Sree Vidhya for R4

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.2,76,000/- towards compensation to the first respondent, due to the death of her daughter in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 17.03.1998, at about 11.00 a.m., the daughter of the first respondent by name Bhuvaneswari, was returning home from the college, by Town Bus (Route No.04-B), belonging to the appellant Transport Corporation. To alight the passengers from the bus, the driver of the bus stopped the bus in the middle of the Pollachi - Coimbatore Main Road. When the



first respondent's daughter and her friend were getting down from the bus, a lorry driven by the second respondent herein came from South to North direction in a rash and negligent manner and dashed against the first respondent's daughter and her friend. Due to the said impact, the first respondent 's daughter sustained grievous injuries all over the body. She was taken to the CMC Hospital, Coimbatore, where she died at about 11.50 a.m., on the same day. The first respondent/ father of the deceased, filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.2,76,000/- with interest at the rate of 9% per annum from the date of petition.

3.Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

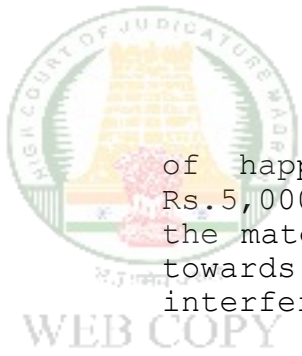
4.The learned counsel for the appellant has submitted that the Tribunal has erred in holding that the appellant's bus driver was negligent and was also responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.The learned counsel for the first respondent / claimant has submitted that the Tribunal has thoroughly considered the materials and evidence available on record and has granted the compensation, which is just, fair and reasonable and hence the same need not be interfered with by this Court.

6.Heard the learned counsel for the appellant as well as the learned counsel for the first respondent / claimant and perused the materials available on record carefully and meticulously.

7.On considering the evidence of P.Ws.2 and 3, it is seen that the driver of the bus belonging to the appellant Transport Corporation stopped the bus in the middle of the road, which paved the way for the accident. It is also seen that a case has been filed against the second respondent-lorry driver and he was convicted by the Criminal Court. Taking note of all these aspects, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation, which finding this Court is not inclined to interfere.

8.In respect of the quantum of compensation, the Tribunal has awarded a sum of Rs.50,000/- towards loss of dependency, Rs.20,000/- towards loss of love and affection, Rs.1,00,000/- towards mental shock and suffering, Rs.1,00,000/- towards loss



of happiness, Rs.1,000/- towards transport to hospital and Rs.5,000/- towards funeral expenses. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above heads and hence the same need not be interfered with by this Court.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Transport Corporation is directed to deposit the award amount with interest, as ordered by the Tribunal, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal
Chief Judicial Magistrate, Coimbatore.

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

+1cc to Mr.S.V.Vasanthakumar, Advocate SR.No.52076

+1cc to Ms.A.L.Ganthimathi, Advocate SR.No.51968

C.M.A.No.3846 of 2004
and C.M.P.No.20532 of 2004

VSN II (CO)
GMY (01/10/2019)