

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2217 of 2006
and M.P.No.1 of 2006

The Managing Director,
Tamil Nadu State Transport Corporation Limited
Coimbatore. ... Appellant /2nd Respondent

Vs.

1.K.Jeyanthi

2.K.Nishanth Menon
(Minor rep.by his mother
K.Jeyanthi, the first respondent herein).

3.A.Sivasami

4.S.Sarojini

5.P.Krishnamurthy ... Respondents/Petitioner 1
to 4 & 1st Respondent

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 21.04.2005 made in MCOP No.95 of
2004 on the file of the Motor Accidents Claims Tribunal (Sub-
Court), Udumalaipet.

For Appellant : Mr.S.V.Vasanthakumar

For Respondents: Mr.M.N.Balakrishnan
for R1 to R4

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.8,98,000/- towards compensation to the respondents 1 to 4, due to the death of the husband of the first respondent, in a motor vehicle accident.

2.The case in brief, is as follows:

On 05.04.2004 at about 08.10 hours, the deceased Kanagaraj

was driving his van bearing Reg.No.TN-33-F-0024 in the Udumalpet - Pollachi Main Road from East to West direction. When the van reached near Ragalbavi Pirivu, the bus bearing Reg.No.TN-38-N-0722, belonging to the appellant Transport Corporation, came from West to East direction at high speed in a rash and negligent manner and dashed against the deceased's vehicle. Due to the said impact, the deceased sustained grievous injuries and died on the spot. The wife, son, father and mother of the deceased filed a claim petition before the Tribunal, claiming a sum of Rs.25,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.8,98,000/- 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 rash and negligent and was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.The learned counsel for the respondents 1 to 4 / claimants has submitted that the Tribunal has rightly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation. He also submitted that the Tribunal has rightly fixed the liability on the part of the appellant, considering the materials and evidence available on record. Therefore, according to the learned counsel for the claimants, the judgment of the Tribunal does not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellant and the learned counsel for the claimants and perused the materials available on record carefully and meticulously.

7.Considering Ex.P1-First Information Report, Ex.P2-Charge Sheet, Ex.P3-Post Mortem Report, Ex.P4-Motor Vehicle Inspector Report, Ex.P5-Death Certificate, Ex.P6-Legal Heirship Certificate, Ex.P7-RC Book of the van, Ex.P8-Income Tax Return, Ex.P9-Trip Sheet, Ex.P10-Bills regarding repairs done to the van, Ex.P11-Policy copy, Ex.P13-Driving Licence of the deceased, Ex.P14-Accounts regarding the procurement of milk and also the evidence of P.W.1-wife of the deceased and P.W.2-Nataraj, who was travelling along with the deceased at the time of accident, 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. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

8. With regard to the quantum of compensation, the Tribunal has awarded a sum of Rs.8,16,000/- towards loss of income. The deceased was procuring milk from the villages and supplying the same to the Milk Companies. He was also an income-tax assessee. Considering the same, the Tribunal was of the view that the deceased would have earned not less than Rs.6,000/- per month and he would have spent a sum of Rs.2,000/- towards his personal expenses. Accordingly, the Tribunal fixed the monthly contribution of the deceased to the family at Rs.4,000/-, arrived at the annual contribution of the deceased to the family at Rs.48,000/-, adopted the multiplier of 17 and awarded a sum of Rs.8,16,000/- towards loss of income. The Tribunal has also awarded a sum of Rs.30,000/- towards damages to the van, Rs.10,000/- towards loss of consortium, Rs.40,000/- towards loss of love and affection and Rs.2,000/- towards funeral expenses. Thus, the Tribunal awarded a total compensation of Rs.8,98,000/-. The Tribunal has rightly considered the materials and evidence, correctly assessed the income of the deceased, adopted the correct multiplier and arrived at Rs.8,16,000/- towards loss of income. The amounts awarded by the Tribunal towards other heads are also very reasonable and hence the same are confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10. The appellant Transport Corporation is directed to deposit the award amount with interest, as ordered by the Tribunal, less 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 major claimants are permitted to withdraw their respective shares, on making proper application before the Tribunal. In respect of the share of the minor, the second respondent herein, the same shall continue to be in the bank deposit as ordered by the Tribunal. The first respondent / mother of the minor is permitted to withdraw interest directly from the bank once in three months, which shall be used for the benefit and welfare of the minor.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

KM

To

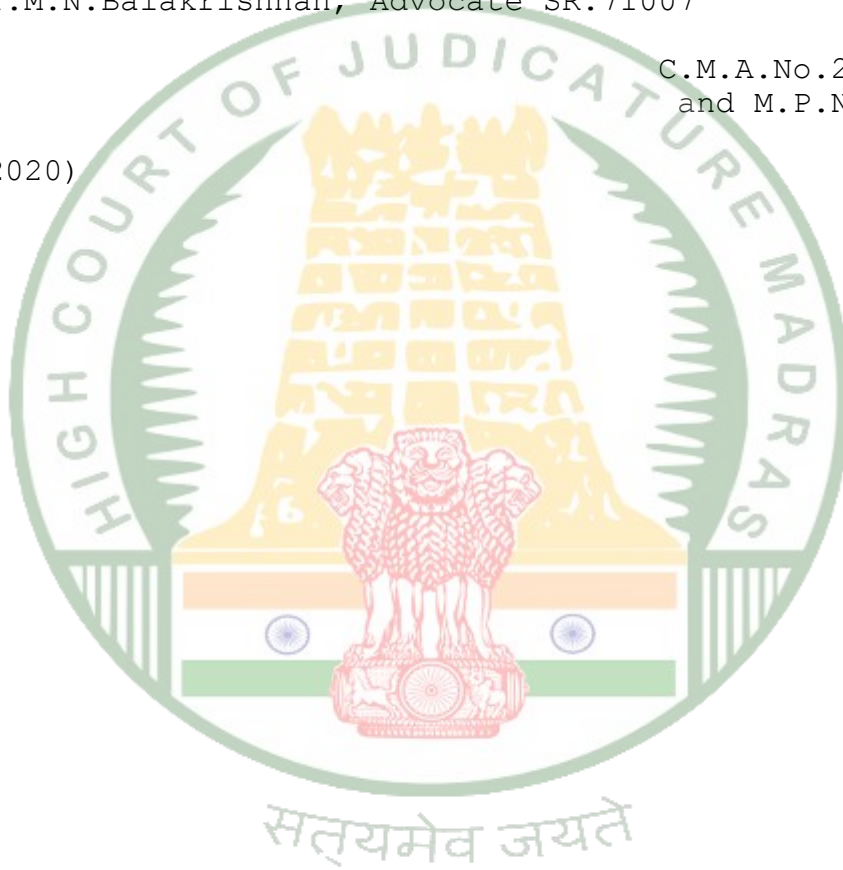
The Sub Judge,
The Motor Accidents Claims Tribunal
(Sub-Court), Udumalaipet.

Copy to: The Section Officer,
VR Section, Madras High Court.(+2 copies)

+1cc to Mr.M.N.Balakrishnan, Advocate SR.71007

C.M.A.No.2217 of 2006
and M.P.No.1 of 2006

BR(CO)
CB(10/03/2020)



WEB COPY