

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.01.2019
CORAM
THE HONOURABLE MRS. JUSTICE R. HEMALATHA
C.M.A.NO.1956 OF 2005
and
C.M.P. NO. 10525 of 2005

The Managing Director
Tamilnadu State Transport Corporation
Coimbatore Division Ltd.
Mettupalayam Road, Coimbatore.

...Appellant/2nd Respondent

Vs.

1. T.P.Sundaram
2. Mariappan
3. United India Insurance Co. Ltd.
Udumalaipettai
Coimbatore District
4. Minor Hariprasad
5. Minor Hareni
6. Neelamani

Minors represented by their
Maternal grand mother Neelamani

...Respondents /Petitioner and
Respondents 1 & 3 , 4 to 6

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the award dated 09.07.2003 passed by the learned Subordinate Judge, Motor Accidents Claims Tribunal, Udumalaipettai in MCOP No.246 of 2001

For Appellant : Mr.S.V.Vasanth Kumar

For Respondents : No appearance.

JUDGMENT

The appellant Tamilnadu State Transport Corporation, Coimbatore, is the second respondent in MCOP No.246 of 2001 on the file of the Subordinate Judge, Motor Accidents Claims Tribunal, Udumalpet.

2. The first respondent/claimant filed the Claim Petition under Section 166 of Motor Vehicles Act, seeking compensation for the death of his daughter Amudha in a road accident that took place on 30.12.2000. The brief case of the respondent/claimant is as follows:

On 30.12.2000 the deceased Maruthamani was riding his motorcycle bearing registration No. TN41 F 5250 along Pollachi-

Kovai road. His wife Amudha (daughter of the first respondent/claimant) and her three month old child Harshini were pillion riders. When they were nearing Aachipatti Check post, a speeding bus bearing registration No.TN 38 N 0513 belonging to the present appellant hit the two wheeler, as a result of which, the deceased Maruthamani died on spot and the deceased Amudha and Harshini died on their way to hospital. According to the first respondent/claimant, the rash and negligent driving of the driver of the bus belonging to the appellant was the cause of accident and therefore, they are liable to pay compensation to him.

3. The driver of the bus as well as the Tamilnadu State Transport Corporation contested the claim petition before the tribunal. The learned Subordinate Judge, Motor Accidents Claims Tribunal, Udumalaipettai, after analysing the records, awarded a compensation of Rs.1,00,000/- to the first respondent / claimant together with interest at the rate of 9% per annum from the date of claim petition till the date of deposit.

4. Aggrieved over the orders passed by the tribunal, the Tamilnadu State Transport Corporation, has filed the present appeal under Section 173 of the Motor Vehicles Act 1988.

5.Mr.S.V.Vasantha Kumar, learned counsel appearing for the appellant would contend that the tribunal has awarded an exorbitant amount of Rs.1,00,000/- to the first respondent/claimant and that the rider of the two wheeler was also responsible for the accident.

6.It is pertinent to point out that the deceased Maruthamani was riding his two wheeler with his wife and their three month old child as pillion riders. Therefore, by no stretch of imagination it can be said that the deceased Maruthamani drove his vehicle rashly and negligently and dashed against the bus bearing registration No.TN 38 N 0513 belonging to the present appellant.

7. As far as the quantum of compensation is concerned, the tribunal has awarded a just compensation of Rs.1,00,000/- to the first respondent / claimant and the first respondent also did not file any appeal or cross objection to enhance the compensation amount. The award passed by the tribunal also cannot be said to be on the higher side.

8. In view of the reasons stated above,

(i) The appeal filed by the Tamilnadu State Transport Corporation Limited fails and is therefore dismissed. No costs. Consequently connected miscellaneous petition is also dismissed.

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

(iii) The appellant / The Tamilnadu State Transport

Corporation Ltd., Coimbatore is directed to pay the entire compensation amount of Rs.1,00,000/- to the first respondent / claimant together with interest at the rate of 9% per annum from the date of claim petition till the date of deposit, less the amount already deposited by them, within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made by the appellant, the first respondent/claimant is entitled to withdraw the same, after following due process of law.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

bga

To,

1.The Subordinate Judge,
Motor Accidents Claims Tribunal, Udumalpet.

Copy To

The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.S.V.Vasanth Kumar, Advocate, S.R.No. 5983

सत्यमेव जयते

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