

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.07.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1917 of 2008
and M.P.No.1 of 2008

The Managing Director
Tamil Nadu State Transport Corporation Ltd.
Salem Division-1, 12, Ramakrishna Road,
Salem-7. ... Appellant/ Respondent

Vs

1.Chinnappaiyan
2.Mohan @ Mohanasundaram
3.Mahendran
4.Yuvaraj
5.Vasantha ... Respondents/ Petitioners

Appeal under Section 173 of the Motor Vehicles Act
against the judgment and decree dated 30.01.2008 made in
MCOP No.428 of 2006 on the file of the Motor Vehicles
Accident Claims Tribunal and Sub Court at Sangagiri.

For Appellant : Mr.S.V.Vasanthakumar

For Respondents : Mr.C.Kulanthaivel

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.3,50,000/- towards compensation to the respondents, due to the death of the wife of the first respondent in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 16.06.2006, the deceased Pachaiaammal was travelling in the bus bearing Reg.No.TN-27-N-1351, belonging to the appellant Transport Corporation, in the Tiruchengodu to Veppadai Main Road. At about 05.30 a.m. on that day, while she was getting down from the bus, the driver suddenly moved the bus in a rash and negligent manner, before getting signal from the conductor. Due to the said impact, the deceased fell down from the bus and sustained injuries on her head and face and died on the spot. The legal heirs 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.3,50,000/- with interest at the rate of 7.5% 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 / claimants has submitted that the Tribunal has correctly considered the materials and evidence available on record and has correctly arrived at the compensation and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.P.W.1-Chinnappaiyan, husband of the deceased, deposed before the Tribunal that at about 05.30 a.m. on the date of accident, while the deceased was getting down from the bus, the driver suddenly moved the bus in a rash and negligent manner, before getting signal from the conductor and due to the same, she fell down from the bus and was carried away upto a certain distance and due to the said impact, she sustained blood injuries right from upper hand to elbow and there was oozing of blood from her nose and mouth. She was taken to the Government Hospital, Erode and she died in the hospital. P.W.2-Yuvaraj is the eye-witness to the accident. His deposition before the Tribunal is in the similar lines, as deposed by P.W.1. The driver of the bus was also examined. He deposed before the Tribunal that when the bus was about to be stopped, the deceased hurriedly got down from the front foot board and at that moment, her saree got stuck to her leg and due to the same, she fell down and sustained injuries. After considering the materials and evidence available on record, the Tribunal had given a finding 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 finding rendered by the Tribunal.

8.In respect of the quantum of compensation, the Tribunal has awarded a sum of Rs.3,20,000/- towards loss of income. The Tribunal was of the view that had the deceased been alive, she would have lived at least 20 years. Relying upon Ex.P6-Salary Certificate of the deceased, obtained from M/s.Sukumar Textiles, Devanankurichi, Tiruchengode Taluk, the Tribunal fixed the monthly income of the deceased at Rs.5,000/-, arrived at the annual income at Rs.60,000/-, deducted 1/3rd of the amount towards her personal expenses, adopted the multiplier of 8 relating to the age of the deceased, and arrived at Rs.3,20,000/- towards loss of income. The Tribunal has also awarded a sum of Rs.25,000/- towards loss of love and affection 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 respondents / claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Judge,
Motor Accidents Claims Tribunal and Sub Court,
Sangagiri.

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

+1cc to Mr.C.Kulanthaivel , Advocate SR.No. 58393

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A.SK(18/11/2019)