

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

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2081 of 2008

The Managing Director
Tamil Nadu State Transport Corporation Ltd.
Salem Division II,
No.12, Ramakrishna Road,
Salem-7.

...Appellant/Respondent

Vs

1.Magipal
2.Inbavalli

... Respondents/Petitioners

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 11.02.2008 made in MCOP No.1094 of 2006 on the file of the Motor Vehicles Accident Claims Tribunal and Principal District Judge at Salem.

For Appellant : Mr.S.V.Vasanthakumar

For Respondents : Mr.V.Kumaravel for
Mr.U.Karunakaran

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.1,50,000/- towards compensation to the respondents, due to the death of their son in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 26.03.2006, the deceased Koteeswaran @ Rajineeswaran was travelling in the motorcycle (Yamaha Crux) bearing Reg.No.TN-29-Q-7169 as a pillion rider. The two-wheeler was driven by one Sakthivel, in the Harur-Salem Main Road. When the two-wheeler was proceeding near Manjavadi Kanavai Forest Check Post, at about 16.30 hours, the bus bearing Reg.No.TN-27-N-1641 belonging to the appellant Transport Corporation, came in a rash and negligent manner and dashed against the back side of the two-wheeler and ran over the head of the deceased. Due to the said impact, the deceased and two others sustained grievous injuries all over the body and died on

the spot. The legal heirs of the deceased, ie., father and mother, 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.1,50,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant Transport Corporation has come up with 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 passed the impugned judgment, 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.Ex.P4 is the Post Mortem Certificate of the deceased. According to Ex.P4, it is seen that the deceased died out of shock and the injuries sustained in the accident. On the side of the Insurance Company, it was pleaded before the Tribunal that the two-wheeler tried to overtake the bus in the front side, when the bus was passing through a curve and thereafter, on seeing the bus, the rider of the two-wheeler applied sudden brake, which paved the way for the accident. R.W.1-Conductor of the bus deposed before the Tribunal that the two-wheeler in question came in the same direction, where the bus was proceeding and the bus driver had not tried to overtake the two-wheeler. He categorically deposed before the Tribunal that he was not sure of the circumstances, which led to the accident. Taking note of these evidences, the Tribunal fixed the negligence on the part 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 the absence of any concrete evidence as regards the income of the deceased, considering the age of the deceased, the Tribunal was of the view that the deceased would have earned not less than Rs.1,000/- per month and accordingly fixed the monthly income at Rs.1,000/-, arrived

at the annual income at Rs.12,000/-, deducted 1/3rd of the amount towards personal expenses, adopted the multiplier of 16 by relying upon Schedule-II of the Motor Vehicles Act, and awarded a sum of Rs.1,28,000/- towards loss of income. The Tribunal has also awarded a sum of Rs.20,000/- towards loss of love and affection and Rs.2,000/- 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. 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 VIII)

//True Copy//

Sub Assistant Registrar

KM
To

1. The Motor Accidents Claims Tribunal and
Principal District Judge, Salem.

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

C.M.A.No.2081 of 2008

A.SK(18/11/2019)

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