

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2019

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

C.M.A.No.3944 of 2005

and

C.M.P.No.19501 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation,
Rangapuram,
Vellore, Vellore District. ... Appellant/Respondent

Vs.

1.Sampath

2.Ashokkumar

3.Minor Sonikkumar

4.Minor Vijayakumar ... Respondents/Petitioners

[Minors R3 and R4 are represented by
their Natural Guardian and Father, R1
Sampath]

Prayer : Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988, against the judgment and decree
dated 24.02.2003 in M.C.O.P.No.316 of 2000 on the file of the
Motor Accident Claims Tribunal (Sub Court), Ranipet.

For Appellant : Mr.G.Muniratnam
For R1 to R4 : Mr.Parivallal

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the
State Transport Corporation, assailing the award passed by the
'Motor Accident Claims Tribunal (Sub Court), Ranipet'
(hereinafter 'the Tribunal' for brevity) in M.C.O.P.No.316 of
2000, on 24.02.2003.

2.It is the case of the claimants/respondents that, on
07.04.2000, at about 06.45 p.m., when the deceased Malliga was
travelling as a pillion rider in a bicycle, in Vellore-Bangalore

Road, near Anandha Theatre, the driver of the bus bearing Registration No.TCV-3545, belonging to the appellant State Transport Corporation, came in a rash and negligent manner and hit the bicycle, in which the deceased was travelling. Due to the said collision, the deceased was thrown away from the bicycle, resulting in grievous injuries to her. She was taken to the Government Hospital, Vellore, however, she ultimately succumbed to the injuries. The family members of the deceased, the respondents herein, filed a claim petition in M.C.O.P.No.316 of 2000 before the Tribunal, claiming a total compensation of Rs.5,00,000/- (Rupees five lakhs only). The Tribunal, on considering the evidence and materials on record, awarded Rs.2,30,400/- towards loss of income, Rs.500/- towards transportation charges, Rs.5,000/- towards funeral expenses, Rs.10,000/- towards loss of love and affection and Rs.10,000/- towards loss of consortium, totalling a sum of Rs.2,55,900/- (Rupees two lakhs fifty five thousand and nine hundred only) as compensation with interest @ 9% from the date of claim petition.

3.Challenging the award, the appellant State Transport Corporation is before this Court, by way of this appeal.

4.The learned counsel appearing on behalf of the appellant State Transport Corporation has submitted that the bus belonging to the appellant Corporation was not at all involved in the accident on the said day, i.e. on 07.04.2000. He further contended that the Tribunal has relied only on the evidence of claimant side witnesses and exhibits and has fixed the negligence on the part the driver of the bus belonging to the appellant and failed to consider the evidence of R.Ws.1 and 2, who are the driver and conductor of the bus. He concluded his arguments by submitting that in the absence of any documentary evidence in respect of income of the deceased, the compensation awarded by the Tribunal is excessive and exorbitant.

5.On the other hand, learned counsel appearing for the 4th respondent / claimant refuted the aforesaid contentions and submitted that the Tribunal has considered all the evidence and materials available on record and has rightly awarded Rs.2,55,900/- as compensation and hence the same does not require any interference by this Court.

6.This Court gave its anxious consideration to the rival submissions and perused the materials available on record.

7.On a perusal of the judgment passed by the Tribunal, it is seen that, one Mr.Kumar, who was the rider of the bicycle, was examined as P.W.2, who has deposed that, on 07.04.2000, at about 06.45 a.m., when he was riding his bicycle with the

deceased on the pillion, the driver of the bus bearing Registration No.TCV-3545 drove the bus in a rash and negligent manner and hit his bicycle and because of the same, the deceased sustained grievous injuries and died on the way to the hospital. He has further deposed that the driver of the bus proceeded without stopping the bus after the accident had occurred.

8.The Tribunal, on considering the evidence of both sides and upon perusal of the First Information Report (Ex.P1), case sheet (Ex.P4) and all other exhibits and by proper reasoning, has come to the conclusion that the accident was due to the negligence on the part of the driver of the bus, belonging to the appellant Corporation, which finding, this Court is not inclined to interfere with.

9.With regard to the quantum of compensation, though the respondents/claimants have stated the income of the deceased to be Rs.2000/- in their claim petition, the 1st claimant (P.W.1), in his evidence, has stated the daily income of the deceased to be Rs.75/-. In the absence of any documentary evidence to substantiate the income of the deceased, the Tribunal has taken into consideration the deposition of P.W.1 and came to the conclusion that the deceased would have earned not less than Rs.75/- per day as a mason, calculated the monthly income at Rs.1,800/-, deducted 1/3rd of the amount towards the personal expenses of the deceased and arrived at the sum of Rs.1,200/- as the monthly contribution of the deceased to the family, adopted the proper multiplier of 16 and has awarded a compensation of Rs.2,30,400/- towards loss of income, which is fair, just and reasonable. That apart, the Tribunal has awarded a sum of Rs.10,000/- each under the heads 'loss of love and affection' and 'loss of consortium', which according to this Court, are just and reasonable, since the claimants have lost an irreplaceable person in their family. The amounts awarded by the Tribunal under other heads are also just and reasonable. Hence, the compensation awarded by the Tribunal at Rs.2,55,900/- with interest at the rate of 9% per annum from the date of petition, is hereby confirmed.

10.In the result, the Civil Miscellaneous Appeal is dismissed, confirming the judgment and decree passed by the Tribunal in M.C.O.P.No.316 of 2000, on 24.02.2003. No costs. Consequently, connected Miscellaneous Petition is closed.

11.The appellant State Transport Corporation is directed to deposit the award amount as ordered by the Tribunal with interest and costs, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. The minor respondents 3 and 4 would have attained majority by now. Hence, on such deposit

being made, the respondents/claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

mkn

To

1.The Subordinate Judge,
(Motor Accident Claims Tribunal)
Ranipet.

Copy To

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

+1cc to Mr.G.Muniratnam, Advocate, S.R.No.61527
+1cc to Mr.V.Parivallal, Advocate, S.R.No. 61531

C.M.A.No.3944 of 2005 and
C.M.P.No.19501 of 2005

RSI (CO)
GN(09/09/2020)

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