

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3980 of 2005

and

C.M.P.No.19584 of 2005

Tamilnadu State Express Transport Corporation Ltd.,
Pallavan Salai, Chennai rep. by its Managing Director,
Office at Coimbatore viz,
State Express Transport Corporation,
Tamilnadu Division - I Ltd, Mettupalayam Road,
Coimbatore - 30.

... Appellant/2nd Respondent

Vs.

1.R.Kumaradass

2.Grace Lilly alias Grace Mary

3. Bryl

4. V.Kalidhass @ Kalithasan ... Respondents/1st Respondent
(Fourth respondent exparte before the Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 04.03.2004 made in M.A.C.T.O.P.No.305 of 2001 on the file of the Motor Accidents Claims Tribunal (Additional District & Sessions Judge, Fast Track Court No.III) at Coimbatore.

For Appellant : Mr.M.Krishnamoorthy

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal, the appellant /Transport Corporation has preferred this Civil Miscellaneous Appeal.

2.The case in brief, is as follows:

On the fateful day, i.e., on 30.03.1999, at about 10.50pm, one Jenkinskumar was driving his car bearing Regn. No.PY 01 J 2754 along with his friend Senthilkumar from Madurai to Coimbatore and while the car was nearing Kallakinaru, a bus

belonging to the appellant Transport Corporation, driven by its driver viz., fourth respondent came from opposite direction in a rash and negligent manner and dashed against the Car. As a result of the same, the said Jenkinskumar succumbed to the injuries. The father, mother and sister, who are the legal heirs of the deceased, filed a claim petition seeking compensation of Rs.10,00,000/-. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.4,40,500/- with interest at the rate of 9% per annum from the date of petition. Challenging the same, the appellant/Transport Corporation is before this Court with the present appeal.

3.The learned counsel for the appellant/Transport Corporation has not disputed the manner of the accident and the conclusion arrived at by the Tribunal that the accident had occurred due to the rash and negligent driving of the driver of the bus. However, he submitted that the quantum of compensation awarded by the Tribunal is excessive and exorbitant and hence, the same needs to be reduced.

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

5.It is seen that the respondents are not ready in notice. Even though this appeal was admitted and a conditional order of Stay was granted way back in the year 2005, the appellant/Transport Corporation has not taken proper steps to serve papers to the respondents, even at this length of time.

6.There is no dispute with regard to the liability of the appellant Transport Corporation to pay compensation to the respondents/claimants.

7.As regards the quantum of compensation, P.W.1, father of the deceased, deposed in his evidence that the deceased was an unmarried; aged 28 years; holder of B.Sc. degree in Computer Science; earning a sum of Rs.25,000/- per month by running a Company; and also an Income Tax as well as Sales Tax Assessee. Considering the oral and documentary evidence, the Tribunal has taken the monthly income of the deceased at Rs.4,000/-, after deducting 1/3rd towards personal expenses, arrived at the annual income at Rs.32,000/-, adopted the multiplier of 13 and awarded a sum of Rs.4,16,000/- towards loss of income. The Tribunal has correctly analyzed the income of the deceased, adopted the correct multiplier and arrived at the said sum towards the contribution of the deceased to his family and hence, the same does not call for any interference by this Court.

8.That apart, the Tribunal has awarded Rs.20,000/- towards loss of love and affection, Rs.2,000/- towards funeral expenses and Rs.2,500/- towards loss of estate, which appear to be fair, just and reasonable and the same need not be interfered with, having regard to the facts and circumstances of the case.

9.Thus, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant/Transport Company is directed to deposit the entire award amount along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the Tribunal shall transfer the shares of the award amount to the savings bank accounts of the respective claimants, as apportioned by the Tribunal, through RTGS within a period of one week thereafter. Consequently, connected Miscellaneous petition is closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal
(Additional District & Sessions Judge,
Fast Track Court No.III) at Coimbatore.

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

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JP (CO)
SP(20/11/2019)