

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.423 of 2006
& CMP No.1429 of 2006

The Managing Director,
State Express Transport Corporation Ltd.,
Chennai .. Appellant/Respondent

Versus

1. Jeevarathinam
2. Rajalakshmi
3. Vijayalakshmi
4. Ragini
5. Sridevi ... Respondents/Petitioners

Appeal preferred under section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in MACTOP.No.3079 of 2001 on the file of the Motor Accidents Claims Tribunal, Fast Track Court No.III, Chennai dated 18.02.2005.

For Appellant : Mr. S.V.Vasanthakumar
For R-1 to R-4 : Mr. K.Palanivel

J U D G M E N T

This appeal is directed against the award of compensation passed by the learned Tribunal, Chennai, in MACTOP.No.3079 of 2001 dated 18.02.2005 in awarding a sum of Rs.6,10,424/- in favour of the claimants with interest at 9% per annum from the date of petition till the date of realisation with proportionate cost, against the claim of Rs.20,00,000/-. The appellant herein is the respondent /Transport Corporation before the Tribunal.

2. On 05.02.2001 at about 15.15 hours when the deceased Chandran was riding his scooter bearing Registration No.TN21-3744 from Acharapakkam to Madhuranthagam, at the way to Southupakkam X Road near GST Road, the Transport Corporation Bus bearing Registration No.TN01-N-6521, which was proceeding from Chennai to Mannarkudi, hit the deceased. Due to this unexpected event, the deceased Chandran sustained grievous injuries and died on the spot. The respondents/petitioners claimed Rs.20,00,000/- as compensation.

3. The appellant/Transport Corporation denied the averments of the claimants and stated in the counter that the deceased came in the wrong side of the road, invited the accident and died on the spot and that the deceased alone was responsible for the said accident. The respondent Corporation had stated that the accident had occurred only due to the carelessness of the deceased and not due to the driver of the bus.

4. The Tribunal after considering the facts and circumstances of the case, framed the following issues:

- "1. Whether the accident occurred only due to the rash and negligent driving of the driver of the bus belonging to respondent Transport Corporation? and
2. What should be the quantum of compensation if any awardable to the claimants?"

5. On the side of the claimants, two witnesses were examined and fifteen documents were marked and on the side of the respondent Corporation, the driver of the Corporation Bus was examined, but document was marked. On considering the oral and documentary evidence, the Tribunal has come to the conclusion that the driver of the bus belonging to the respondent Transport Corporation was responsible for the accident and awarded Rs.6,10,424/- as compensation, the details are as under:

Loss of Income	-	Rs.4,95,424/-
Loss of Consortium	-	Rs. 30,000/-
Loss of Love & Affection		
(Rs.20,000/- x 4)	-	Rs. 40,000/-
Funeral Expenses	-	Rs. 5,000/-

Total	-	Rs.6,10,424/-

6. The learned Tribunal, after full fledged enquiry had come to a conclusion that the claimants of the deceased person are entitled to a sum of Rs.6,10,424/- against the claim of Rs.20 lakhs.

7. The learned counsel for the appellant/respondent Transport Corporation would submit that the Tribunal erred in relying upon the evidence of P.W.2, the alleged eye-witness in respect of the manner of accident, and that the deceased Chandran had invited the accident and therefore, the appellant herein is not liable to pay any compensation. He would further submit that the quantum of compensation as fixed by the learned Tribunal was against the proportions and the multiplier adopted was also high and the quantum of compensation should also be reduced in such a way to suit the norms of law. Therefore, he had prayed for the revision of liability and the quantum of compensation as reached by the learned Tribunal and the appeal

may be allowed.

8. The learned counsel for the respondents/claimants would submit that the Lower court is justified in coming to the conclusion of fixing the liability of payment against the Transport Corporation since it is the duty of the driver to ensure that it is safe for the public to travel in the road; but the driver of the bus came to the extreme opposite side of the road and hit against the deceased Chandran, thereby he died on the spot and therefore, the appellant / Transport Corporation is liable to pay compensation. He would further submit that the things happened during the course of accident would speak volume of truth through eye-witness, P.W.2, and fasten the liability on the appellant herein only. He would also submit that the lower court had assessed the compensation on the basis of documentary evidence supported by the oral evidence adduced by the claimants and had correctly come to the conclusion of awarding a sum of Rs.6,10,424/- to the claimants. Therefore, he would submit that the case of the appellant / Transport Corporation may not be relied upon and the appeal be dismissed.

9. On a careful consideration of the arguments advanced on either side and the evidence adduced before the lower court, this Court could see, that, admittedly, the accident had happened on 05.02.2001 when the deceased Chandran was driving his two-wheeler from Acharapakkam to Maduranthagam, on the way at Southupakkam X Road. The appellant's bus dashed against the deceased scooter, due to which the said Chandran sustained injuries and died on the spot. The First Information Report was produced as Ex.P.6 which was corroborated by the evidence of P.Ws.1 and 2. There is no rebuttal evidence on the part of the appellant / Transport Corporation to show that the death could not be due to the injuries sustained in the accident or that it was due to some other reason. There is also no record to show that Ex.P-6 as well as P.Ws.1 and 2 are wrong. Therefore, this Court could safely come to a conclusion that the accident had happened only at the rash and negligent driving of the driver of the appellant bus and not due to any negligence on the part of the deceased Chandran.

10. Next, this Court has to deal with the just compensation to be awarded. It is borne out from records that the deceased Chandran was working as a Junior Engineer in the Public Works Department and was earning a sum of Rs.7,741/- pm at the time of accident. He was aged 56 years and he has got two years of remaining service. The salary certificate produced as Ex.P.4 had proved the same. The learned Tribunal had taken the monthly income at the said figure, arrived at the annual figure, used the multiplier of '8' and deducted 1/3rd towards the personal expenses of the deceased and fixed the contribution to his

family at Rs.4,95,424. The multiplier placed at '8' is perfectly done in accordance with Schedule II of the Motor Vehicles Act. Therefore, there is no impediment to uphold the calculation made by the learned Tribunal. Apart from that, the learned Tribunal had also calculated the compensation for loss of love and affection and for future life of the claimants at Rs.20,000/- for each of the claimants and for the loss of consortium at Rs.30,000/- for the first claimant. The funeral expenses was also awarded at Rs.5,000/- and a total sum of Rs.6,10,424/- was awarded to the claimants against the claim of Rs.20 lakhs made by the claimants. The claimants have not preferred any cross-objection in this appeal. The calculation as made out by the learned Tribunal is quite just and reasonable and therefore, there is no reason for revising or reducing the compensation payable to the claimants. Therefore, this Court is of the considered view that the compensation awarded by the learned Tribunal is justifiable and therefore, confirmed.

11. Accordingly, the appeal preferred by the Appellant/Transport Corporation is liable to be dismissed. In the result, the appeal is dismissed, however there will be no order as to costs. Consequently the connected MP is closed.

12. The appellant / Transport Corporation is directed to deposit the amount of compensation, as awarded by this Court, along with interests 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 being made, the Tribunal shall transfer the compensation amount to the Savings Account of the Claimants / respondents herein forthwith through RTGS.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

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To

1. Motor Accidents Claims Tribunal, Fast Track Court No.III, Chennai

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

+1 CC to Mr.S.V. Vasantha Kumar, Advocate sr 47429.

C.M.A.No.423 of 2006
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SKV (CO)
SP (24/09/2019)