

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.08.2019
CORAM

THE HON'BLE MR.JUSTICE.R.MAHADEVAN

C.M.A.No.3532 of 2008
and M.P.No.1 of 2008

Metropolitan Transport Corporation
Limited, Rep. by its Managing Director,
Pallavan Salai,
Chennai - 2.

..... Appellant/ respondent

Vs.

1. S.Shankar
2. Minor Rajeswari
3. Minor Saranyadevi

..... Respondents/ Respondents

Minors 2 & 3 rep by father and natural guardian
the first respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 07.11.2005 made in M.C.O.P.No.135 of 1998, on the file of Motor Accidents Claims Tribunal, IVth Judge, Small Causes Court, Chennai.

For Appellant : Mr.S.V.Vasanthakumar
For R1 to R3 : Mr.T.G.Balachandran

J U D G M E N T

The facts of the case, in brief, are as follows:

On 31.01.1997 at about 10.30 hours, the deceased Shanthi was boarding the appellant's bus bearing Registration No.TCB 4812. At that time, the driver of the bus started it suddenly, due to which, the deceased fell down and sustained multiple fractures on her right leg and succumbed to the injuries later. The legal representatives of the deceased Shanthi filed a claim petition before the Tribunal. Considering the materials and evidence available on record, the Tribunal has awarded a sum of Rs.2,06,500/- with interest at the rate of 7.5% per annum from the date of petition as total compensation to be payable by the Appellant/Transport Corporation.

2.Aggrrieved against the same, the Transport Corporation has filed this appeal.

3.The learned counsel for the appellant has submitted that the Tribunal has failed to take note of the fact that the injured had carelessly tried to get into the bus, which was in motion and thereby lost her balance and sustained injuries and as such, the appellant/Corporation was not responsible for the accident as the deceased had contributed to the accident. He further submitted that the Tribunal has erred in awarding huge compensation, which requires significant reduction.

4.Per contra, the learned counsel for respondents 1 to 3 / claimants has submitted that the Tribunal, based on the witnesses and documents, has correctly fixed the negligence on the part of the driver of the bus and has awarded the compensation, which is nothing but just and hence the same does not require any interference.

5.This Court has considered the said submissions made by the learned counsel for both sides and perused the materials available on record.

6.It is not in dispute that there was an accident on 31.01.1997 at about 10.30 hours and the First Information Report has been registered to the effect that the driver of the bus was responsible for the accident. P.W.2 is the eye-witness to the occurrence. He deposed before the Tribunal that when he was standing in the Karambakkam Porur Bus Stand, the deceased was entering into the bus in question and at that time, the driver proceeded the bus suddenly on hearing the whistle from the conductor and thereafter the back wheel of the bus ran over the right leg of the deceased. It is also seen that the evidence of R.W.1-Driver of the bus is not worthy of consideration. Taking note of the materials and evidence, the Tribunal came to the conclusion 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, which finding this Court is not inclined to interfere. सत्यमेव जयते

7.The details of the compensation awarded by the Tribunal are as follows:

Heads	Rs.
Loss of income (1000x12x16)	1,92,000/-
Transportation Expenses	4,000/-
Attender Charges	3,000/-
Damage to Clothes/ personal materials	500/-
	-

Heads	Rs .
Funeral expenses	4,000/-
	-
Loss of love & affection	3,000/-
	-
Total	2,06,500/-

The deceased was a house-maid. The Tribunal has fixed the monthly income of the deceased at Rs.1,500/-, deducted a sum of Rs.500/- towards her personal expenses, adopted the multiplier of 17 and arrived at the amount of Rs.1,92,000/- towards loss of income. The Tribunal has correctly fixed the monthly income of the deceased, adopted the correct multiplier and arrived at the compensation towards loss of income and the same need not be interfered with by this Court. Further, the amounts awarded towards other heads are also just and very reasonable and hence, the same are also confirmed.

8.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

9.The Appellant / 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 2 and 3 would have attained majority by now. Hence, on such deposit being made, the respondents / claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, on making proper application.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

mrm/srk

To

1. The IVth Judge,
Motor Accidents Claims Tribunal,
Small Causes Court, Chennai.

Copy to:

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

+1cc to Mr.T.G.Balachandran , Advocate SR.No. 67657

C.M.A.No.3532 of 2008

A.SK(27/07/2020)