

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2019

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

C.M.A.No.3590 of 2008
and
M.P.No.1 of 2008

The Managing Director,
Tamil Nadu State Transport Corporation Ltd,
Rangapuram,
Vellore - 9. Appellant/Respondent

Vs.

Duraisamy Naidu (died) (as per judgment)
Sanjeevi Ammal ... Respondents/Petitioners

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 11.12.2007 made in M.C.O.P.No.336 of 2002 on the file of the Motor Accident Claims Tribunal, Arani, Tiruvannamalai District.

For Appellant : Mr.N.Anand

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the appellant State Transport Corporation, assailing the award passed by the 'Motor Accident Claims Tribunal, Arani, Tiruvannamalai District' (hereinafter 'the Tribunal' for brevity), on 11.12.2007 in M.C.O.P.No.336 of 2002.

2.The case in brief is as follows:

On 15.07.1999, at about 03.30 p.m., when the deceased Sundaram, was riding his bicycle on the left side of the road, near Cheyyar-Thandarai Canal Bridge, the bus bearing Registration No.TN-23-N-0780, belonging to the appellant State Transport Corporation, came in a rash and negligent manner with high speed without following any traffic rules and hit the deceased, due to which, he sustained grievous injuries all over the body. He was taken to the Government Hospital at Cheyyar for

treatment and he succumbed to the injuries within three days of the accident. Hence, the parents of the deceased filed a claim petition claiming a total compensation of Rs.1,50,000/-. During the pendency of the same, the father of the deceased died. Considering the evidence and materials on record, the Tribunal has awarded a sum of Rs.50,000/- (Rupees fifty thousand only) as total compensation to the mother of the deceased/respondent herein, with interest @ 7.5% from the date of claim petition.

3.The award passed by the Tribunal has been put under challenge by the appellant State Transport Corporation, before this Court, by way of this appeal.

4.Learned counsel for the appellant State Transport Corporation mainly contended that the claim petition under question is hit by the law of res judicata under Section 11 of the Code of Civil Procedure, inasmuch as another claim application in M.C.O.P.No.128 of 2000 was already filed by the wife of the deceased, before the Subordinate Court, Cheyyar, and the same was decreed on 18.12.2002, awarding a compensation of Rs.4,00,000/- (Rupees four lakhs only), payable to the wife of the deceased. The learned counsel further contended that, if at all the present claimants (parents of the deceased) are entitled to get any compensation for the death of their son, they ought to have impleaded themselves as parties to the earlier claim petition, i.e. M.C.O.P.No.128 of 2000, filed by the wife of the deceased. Therefore, the present claim is not maintainable.

5.Even though this appeal has been admitted way back on 11.12.2008, no proper steps have been taken on the side of the appellant Insurance Company to serve papers to the respondent. However, this Court is inclined to dispose of the appeal, as the interest of the respondent will not get affected by this judgment.

6.Heard the learned counsel for the appellant State Transport Corporation and perused the entire materials available on record.

7.On a perusal of the judgment of the Tribunal, it is seen that, the main contention put forth by the learned counsel for the appellant State Transport Corporation before the Tribunal is that a sum of Rs.4,00,000/- had already been awarded as compensation to the wife of the deceased by the Subordinate Court, Cheyyar, in her claim petition in M.C.O.P.No.128 of 2000. The same has not been disputed by the present claimants (parents of the deceased), before the Tribunal.

8.The respondent herein (P.W.1), in her evidence, has deposed before the Tribunal that her husband/1st claimant died

during the course of the proceedings; she lives away from her son's family and her son would give her Rs.1,000/- per month for her livelihood; she had no healthy relationship with her daughter-in-law and hence, her daughter-in-law had filed a separate claim petition, without impleading her as a party to the proceedings; hence, a separate claim petition was filed, insofar as the parents of the deceased are concerned.

9.The Tribunal has considered the entire materials and evidence on record and has rightly come to the conclusion that the respondent, mother of the deceased, was also entitled to get compensation for the death of her son and has accordingly, awarded a sum of Rs.50,000/- as compensation, notwithstanding the fact that the wife of the deceased has already been awarded a sum of Rs.4,00,000/- as compensation. This Court finds no reason to interfere with the award so passed by the Tribunal.

10.In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award passed by the Tribunal on 11.12.2007 in M.C.O.P.No.336 of 2002. 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. On such deposit, the respondent/claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
Arani, Tiruvannamalai District.

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

+1cc to Mr.N.Anand, Advocate Sr.60093

C.M.A.No.3590 of 2008 and
M.P.No.1 of 2008

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srg 27/07/2020