

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3958 of 2008
and M.P.No.1 of 2008

The General Manager
Tamil Nadu State Transport Corporation Ltd.
Vellore. ... Appellant/1st Respondent

Vs

1.P.Malar
2.Palani
3.Minor Ramesh
(R3 minor rep.by his mother
and natural guardian Malar,
the first respondent herein).
..Respondents 1 to 3/Petitioners 1 to 3
4.T.Murugam (Given up)
5.Noor Mohammed (Given up) ..Respondents 4 & 5/2 & 3
6.The Divisional Manager,
United India Insurance Company Ltd.,
Katpadi Road, Vellore-4. Respondents

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 07.08.2006 made in MACTOP No.76 of
2006 on the file of the Motor Accidents Claims Tribunal cum
Additional District and Sessions Court (Fast Track Court),
Vellore.

For Appellant : Mr.N.Anand

For Respondents : Mr.R.Doraisamy for R1 to R3

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.4,00,000/- towards compensation to the respondents 1 to 3, due to the death of the son of the first and second respondents, in a motor vehicle accident.

2.The case in brief, is as follows:

The son of the respondents 1 and 2, by name Kannan, was riding his two-wheeler bearing Reg.No.TN-23-X-1958 in the

Vellore to Chittoor Road along with his friend one Murugan, from North to South direction, on 03.03.2005 at about 01.30 p.m. At that time, the bus bearing Reg.No.TN-23-N-0785 belonging to the appellant Transport Corporation, came in a rash and negligent manner from the opposite direction and dashed against the said two-wheeler. Due to the said impact, both of them were thrown away and the said Kannan sustained head injuries and died on the spot. The father, mother and the brother of the deceased, filed a claim petition before the Tribunal, claiming a sum of Rs.10,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.4,00,000/- with interest at the rate of 9% per annum from the date of petition.

3.Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the Tribunal has erred in holding that the appellant's bus driver was rash and negligent and was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.The learned counsel for the respondents 1 to 3 / claimants has submitted that the Tribunal has correctly considered the materials and evidence and has correctly awarded the compensation which is just, fair and reasonable and hence the same does not require any interference in the hands of this Court.

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

7.The Tribunal has considered the evidence of P.Ws.1 and 2, Ex.P1- First Information Report, Ex.P2-Post Mortem Report, filed on the side of the claimants and the evidence of R.W.1-Conductor of the bus. P.W.1 is the mother of the deceased and P.W.2 is the eye-witness to the accident. On the side of the Transport Corporation, since the conductor of the bus alone had given evidence and the driver of the bus had not deposed before the Tribunal about the accident, 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. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

8.It was put forth on the side of the claimants before the Tribunal that the deceased was working as a mason and was earning a monthly income of Rs.10,000/-. But the Tribunal came

to the conclusion that the deceased would have earned not less than Rs.100/- per day and accordingly he would have earned a sum of Rs.3,000/- per month and his contribution to the family would be Rs.2,000/- after deducting his personal expenses. Thereafter, the Tribunal adopted the multiplier of 15 and arrived at the sum of Rs.3,60,000/- towards loss of income. The Tribunal has correctly assessed the income of the injured, adopted the correct multiplier and arrived at Rs.3,60,000/- towards loss of income. The Tribunal has also awarded a sum of Rs.30,000/- towards loss of love and affection and Rs.10,000/- towards funeral charges, thus awarding a total compensation of Rs.4,00,000/-. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above heads and hence the same need not be interfered with by this Court. But it is seen that the Tribunal has awarded interest at the rate of 9% per annum from the date of petition, when the fact remained that the interest rate prevailing at the relevant point of time was 7.5%. Therefore, the interest rate fixed by the Tribunal is liable to be modified from 9% to 7.5% per annum from the date of petition. Hence, while confirming the quantum of compensation awarded by the Tribunal, the interest rate fixed by the Tribunal at 9% per annum from the date of petition, stands modified to 7.5% per annum from the date of petition.

9. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected miscellaneous petition is closed.

10. It is seen that this Court has passed a conditional order of stay on 16.12.2008 directing to deposit the entire amount of compensation. The third respondent minor would have attained majority by now. Hence, if the entire amount had already been deposited, all the claimants are permitted to withdraw the sum of Rs.4,00,000/- with interest at the rate of 7.5% per annum from the date of petition, less the amount if any already withdrawn, on making proper application before the Tribunal. In case the appellant Transport Corporation had not complied with the order passed by this Court dated 16.12.2008, the appellant Transport Corporation is directed to deposit the compensation of Rs.4,00,000/- with interest at 7.5% per annum from the date of petition, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw the same, on making proper application.

Sd/-

Assistant Registrar (Admn-II)

//True copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal cum
Additional District and Sessions Court
(Fast Track Court), Vellore.

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

+lcc to Mr.N.Anand, Advocate SR.No.69892

C.M.A.No.3958 of 2008
and M.P.No.1 of 2008

BS (CO)
GMY (10/02/2020)



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