

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.697 of 2008

1.Balu
2.Vijaya

...Appellants

..Vs..

1.The Managing Director,
Tamil Nadu State Transport Corp. Ltd.,
Kumbakonam Division II,
Periyamilaguparai,
Trichirapalli. ... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgement dated 22.11.2004 passed in M.C.O.P.No.202 of 2002 on the file of the Motor Accidents Claims Tribunal / Subordinate Court, Ariyalur.

For Appellants : Mr.M.Selvam
for Mr.K.Venugopal

For Respondent : Ms.V.Hemalatha
for Mr.D.Venkatachalam

J U D G M E N T

The appellants are the claimants in MCOP.No.202 of 2002 on the file of the Motor Accidents Claims Tribunal / Subordinate Court, Ariyalur. They filed the claim petition under Sections 140 and 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.5,00,000/- for the death of their son Rajadhurai, aged nine years, in a road accident that took place on 25.04.2002.

2. The case of the claimants is that on 25.04.2002, at about 09.15 pm, when the first claimant was riding his bicycle with his sons Rajadhurai and Radhakrishnan along Ponnusami Aranmanai Street, Ariyalur, a speeding bus bearing Registration No. TN 45 N 1614 belonging to the Tamil Nadu State Transport Corporation Limited hit the bicycle, as a result of which, all of them fell down and both Rajadhurai and Radhakrishnan died on the spot.

due to the rash and negligent driving of the driver of the bus bearing Registration No. TN 45 N 1614 belonging to the Tamil Nadu State Transport Corporation Limited and therefore, they are liable to pay compensation to them.

4. The learned Motor Accidents Claims Tribunal / Subordinate Judge, Ariyalur after analysing the evidence on record, awarded a compensation of Rs.80,000/- together with interest at the rate of 9 % per annum to the claimants. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mr.M.Selvam, learned counsel appearing for the appellants would contend that the compensation of Rs.80,000/- awarded by the Tribunal is very meagre, especially, when the deceased was a boy aged nine years . He relied on the decision in Kishan Gopal and another vs. Lala and others reported in 2013 (5) CTC 212 (SC) and contended that the Honourable Supreme Court of India had awarded a sum of Rs.5,00,000/- for a student aged 10 years who died in a road accident that took place on 19.07.1992.

6. Per contra, Ms.V.Hemalatha, learned counsel appearing for the respondent would contend that, since in the present case, the accident took place only in the year 2002, awarding compensation of Rs.80,000/- is very reasonable.

7. In the decision in Kishan Gopal and another v. Lala and others (cited supra), the Honourable Supreme Court of India has awarded compensation of Rs.5,00,000/- for the death of a boy aged 10 years. Therefore, by applying the said principles, I am of the view that awarding compensation of Rs.5,00,000/- to the appellants / claimants would meet the ends of justice.

8. In the result, सतयमेव जयते

(i) The Civil Miscellaneous Appeal is allowed. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.80,000/- to Rs.5,00,000/-.

(iii) The appellants / claimants are directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of Court fee.

(iv) The respondent / Tamil Nadu State Transport Corporation Limited is directed to deposit the entire compensation amount i.e., Rs.5,00,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.202 of 2002 on the file of the Motor Accidents Claims Tribunal / Subordinate Court, Ariyalur within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The apportionment made by the Tribunal shall be kept intact.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
The Subordinate Court,
Ariyalur.

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

+1cc to Mr.M.Selvam, Advocate, S.R.No. 79628

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No. 79808

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SS(CO)
GN(03/03/2020)

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