

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.126 of 2011
and
M.P.No.1 of 2011

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Bharathipuram,
Dharmapuri-5.

...Appellant/ Respondent

... Vs ...

1. Selvi
2. Dhanasekaran
3. Megala
4. Thimmi alias Thimmiammal

...Respondents/Petitioners

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 19.02.2010 made in M.C.O.P.No.1426 of 2007 on the file of the Motor Accidents Claims Tribunal (Principal District Judge), Krishnagiri.

For Appellant : Mr.V.Ramesh

For Respondents : Mr.Mukund R.Pandiyar

JUDGMENT

The Transport Corporation has filed this civil miscellaneous appeal challenging the award and decree dated 19.02.2010 made in M.C.O.P.No.1426 of 2007 on the file of the Motor Accidents Claims Tribunal (Principal District Judge), Krishnagiri,

2. The short facts that are essential for the disposal of this appeal is that on 07.08.2006 at about 04.45 p.m., when the deceased Chandiran was riding the Hero Honda splendor Motor Cycle bearing Registration No.TN-29-P-9271 with one S.Venkataraman @ Kannan as a pillion rider, slowly, cautiously and observing the traffic rules, proceeding near Samalpatti

Railway Gate, the driver of the Transport Corporation bus bearing Registration No.TN-29-N-1615 drove the same in a rash and negligent manner towards side road leading to the down of the track to cross the railway track and again turned to the right and tried to go in the main road, suddenly hit the motor cycle and caused the accident. Due to the impact, the said Chandiran fell down on the road and the front wheel of the bus ran over him and he succumbed to the injuries on the spot. The first claimant, who is the wife of the deceased, second claimant, who is the son of the deceased, third claimant, who is the daughter of the deceased and the fourth claimant, who is the mother of the deceased, have filed a claim petition claiming a sum of Rs.10,00,000/- as compensation.

3.The first petitioner examined herself as P.W.1 and one Raman @ Venkataraman, who is the eye-witness, was examined as P.W.2. Exs.P.1 to P.6 were marked on the side of the claimants. Conductor of the bus was examined as R.W.1 and no document was marked on the side of the appellant-Transport Corporation.

4. The Tribunal, after considering both oral and documentary evidence adduced on either side, awarded a sum of Rs.9,73,000/- together with interest at 6% per annum from the date of petition till realization. Challenging the correctness of the award passed by the Tribunal, the Transport Corporation has preferred this appeal before this Court.

5. On a perusal of records, it is seen that P.W.2, who is the eye-witness to the occurrence, has categorically stated about the manner of the accident. Hence, the finding of the Tribunal that due to the rash and negligent driving on the part of the driver of the Transport Corporation bus the accident had taken place does not call for any interference by this Court.

6. Coming to the point of quantum, based upon Ex.P.3-Post mortem Certificate and Ex.P.2-Death Certificate, the age of the deceased was fixed as 45 and accordingly, multiplier 14 has been appropriately fixed by the Tribunal.

7. The learned counsel appearing for the appellant-Transport Corporation drawn my attention and also stated that no document has been produced to show the monthly income of the deceased as Rs.7,500/-. From the evidence of Ex.P.4, since the deceased was doing seasonal business and he was also working as a Panchayat President, the monthly income of the deceased was fixed by the Tribunal as Rs.7,500/- and after deducting 1/4th towards personal expenses of the deceased, the loss of income has been calculated. However, it is noticed that the Tribunal has not awarded any amount towards future prospectus and hence, there is no change in the alleged loss of income to the family. Since

the age of the deceased was properly fixed and correct multiplier has been adopted by the Tribunal to arrive at a calculation under the head of loss of income and in view of the revision in the salary as stated above, there is no substantial change in the compensation awarded by the Tribunal. The compensation awarded by the Tribunal under other heads also found to be just and reasonable. On the whole, the quantum of compensation awarded by the Tribunal cannot be said to be excessive and hence, this Court is of the considered view that the appeal is devoid of merits and the same is liable to be dismissed.

8. In the result, the Civil Miscellaneous Appeal is dismissed and the Judgment and decree dated 19.02.2010 made in M.C.O.P.No.1426 of 2007 on the file of the Motor Accidents Claims Tribunal (Principal District Judge), Krishnagiri, is confirmed. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

9. If the award amount with accrued interest has not been deposited, the appellant-Transport Corporation is directed to deposit the entire award amount along with interest at the rate of 6% per annum from the date of claim petition, less the amount already deposited, if any, to the credit of M.C.O.P.No.1426 of 2007 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Krishnagiri, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the respondents/claimants are permitted to withdraw the entire award amount with proportionate interest, in the same apportionment as apportioned by the Tribunal, less the amount already withdrawn, if any.

Jrl

Sd/-
Assistant Registrar (CS IV)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

1. The Principal District Judge,
Motor Accidents Claims Tribunal,
Krishnagiri.

+1cc to Mr.Mukund R.Pandiyar, Advocate, SR.No.10980

C.M.A.No.126 of 2011

Kak(09/07/2019)