

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2080 of 2009
and
M.P.No.1 of 2009

The Managing Director,
Tamilnadu State Transport
Corporation Ltd,
Villupuram Divisional Office,
Valudareddy,
Villupuram.

... Appellant/Respondent

Vs.

1.Anjalakshi
2.Malar
3.Kothai
4.Jayanthi
5.Thenmozhi
6.Vembu
7.Amuthavalli

... Respondents/Petitioners

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 04.04.2008 made in M.C.O.P.No.95 of 2006 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Villupuram.

For Appellant : Mr.V.Ramesh

For R2 to R6 : Mr.J.John Bosco

For R7 : No Appearance

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J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/Transport Corporation as against the award of a sum of Rs.2,90,000/- to the respondents/claimants for the death of one R.Venugopal in a motor vehicle accident that took place on 29.11.2003.

2.The briefly stated facts are that on 29.11.2003 at about

10.45 hours, the deceased was standing on the left side of Kumbakonam-Chennai Main Road at V.Agaram bus stop. At that time, a bus bearing Registration No.TN32-N-1611 belonging to the appellant Transport Corporation came in a rash and negligent manner and hit the deceased. Due to the said impact, the deceased sustained grievous injuries and later, he died, despite treatment. Hence, his legal heirs viz., wife and daughters, filed a claim petition claiming a compensation of Rs.10,00,000/-. The Tribunal, considering the pleadings, oral and documentary evidence has held that the accident had occurred due to the rash and negligent driving of the driver of the bus and accordingly, directed the appellant/Transport Corporation to pay a sum of Rs.2,90,000/- as compensation to the respondents/claimants. Aggrieved over the same, the appellant/Transport Corporation has come out with the present appeal.

3.The learned counsel for the appellant/Transport Corporation has disputed only the quantum of compensation awarded by the Tribunal, as the same is excessive and exorbitant and hence, the same has to be reduced considerably.

4.Per contra, the learned counsel appearing for respondents/claimants submitted that the Tribunal, after considering the oral and documentary evidence in a proper perspective, has awarded the compensation, which is fair, just and reasonable and hence, the same warrants no interference at the hands of this Court.

5.Heard both sides and perused the materials available on record.

6.Since the appellant Transport Corporation has not disputed the finding of the Tribunal that the accident had occurred due to the rash and negligent driving of the driver of the bus, the same is hereby confirmed. Consequently, the liability of the appellant Transport Corporation to pay compensation to the respondents/claimants is also confirmed.

7.As regards the quantum of compensation, it is borne out from the records that the deceased was an agriculturist and was earning a sum of Rs.5,000/- per month. But no acceptable evidence was produced to substantiate the said claim. In such circumstances, the Tribunal has fixed a sum of Rs.3,000/- per month as the notional income of the deceased and deducted 1/3rd towards his personal expenses. The deceased was aged 55 years at the time of accident and hence, adopted the multiplier of '11'. Accordingly, the Tribunal has quantified the compensation under the head "loss of income" at Rs.2,64,000/- (Rs.3,000/- X $2\frac{2}{3}$ X 12 X 11), which is based on the materials and evidence adduced

by the respondents/claimants as well as the settled principles of law and hence, the same need not be interfered in the hands of this Court.

8. Similarly, the compensation awarded by the Tribunal towards non-pecuniary damages viz., Rs.2,000/- towards funeral expenses, Rs.5,000/- towards loss of consortium, Rs.5,000/- towards loss of estate and Rs.14,000/- towards loss of love and affection, in the opinion of this Court, appear to be just and reasonable and the same cannot be treated as excessive or exorbitant at any stretch of imagination and hence, the same do not call for any interference.

9. Hence, affirming the award passed by the Claims Tribunal, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant / Transport Corporation is directed to deposit the entire compensation amount along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the amount to the respective Savings Bank Accounts of the claimants/respondents, through RTGS, within one week thereafter, as per the ratio of apportionment made by the Claims Tribunal.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

gbi/rk

To

1. The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Villupuram.
2. The Section Officer,
V.R. Section,
High Court, Madras.

C.M.A.No.2080 of 2009
and
M.P.No.1 of 2009

PP (CO)
GN(04/09/2020)