

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.08.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2164 of 2009
and
M.P.No.1 of 2009

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

Vs

1. A.Subramani s/o Appa Gounder
2. A.Krishnamoorthy s/o Appa Gounder
3. A.Saminathan, s/o Appa Gounder
4. A.Ramamoorthy s/o Appa Gounder ... Respondents/Petitioner

Appeal filed under Section 173 of the Motor Vehicles Act against the Decree and Judgment passed in M.C.O.P.No.52 of 2007 dated 15.12.2008 on the file of the Motor Vehicle Accident Claims Tribunal, Sub Court, Arani, Tiruvannamalai District.

For Appellant : Mr.S.V.Vasanthakumar
For Respondents : Mr.P.Sathish Kumar 1 to 4

JUDGMENT

This appeal is preferred by the Appellant/ Transport Corporation against the Judgment and Decree passed in M.C.O.P.No.52 of 2007 dated 15.12.2008 on the file of the Motor Accidents Claims Tribunal and Sub Court, Arani, Tiruvannamalai District.

2.The case in brief, is as follows:

On the fateful day, ie. on 27.01.2007 at about 12.15 p.m., one Kasi @ Kasinathan was proceeding in the Jeep bearing Registration No.TN-29-Z4826 in the Vellore Amirthi Road near Vedakollaimedu, the appellant's bus bearing Registration No.TN23-N-1177 came from the opposite direction in a rash and negligent manner at high speed and dashed against the jeep. Due to the said impact, the deceased sustained multiple and grievous injuries. He was admitted in the V.M.C Hospital, Vellore and he

succumbed to the injuries. The legal heirs of the deceased filed a claim petition before the Tribunal claiming a sum of Rs.4,50,000/- as compensation. The Tribunal, on consideration of the materials and evidence available on record, awarded the total compensation of Rs.4,05,000/- with interest at the rate of 7.5% p.a., 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/Transport Corporation has contended that the claimants are the married brothers of the deceased and are living independently, and since they are not dependants of the deceased, they are not entitled to claim any compensation. He further contended that the compensation awarded by the Tribunal is excessive.

5.Per contra, the learned counsel for the respondents / claimants has submitted that the claimants are the brothers of the deceased and they are entitled to file claim petitions as per Section 166 (1)(c) of the Motor Vehicles Act, 1988. He further submitted that the legal heirship has been proved by way of documentary evidence and further, the Tribunal has gone through the related judgments and awarded a just and fair compensation, which does not require any interference.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.Relying upon the judgment of Rajasthan High Court in Kishan Lal and Others v. Bharosi Lal and Others [2002 ACJ 1750], the Tribunal came to the conclusion that the respondents herein/ claimants are entitled to claim compensation as per Section 166 (1)(c) of the Motor Vehicles Act. Further, taking note of the fact that First Information Report has been registered against the driver of the bus and the deposition of R.W.1-Conductor of the bus before the Tribunal and also the evidence of P.W.2 who also sustained injuries on account of 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. This Court is not inclined to interfere with the said findings of the Tribunal.

8.With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has awarded a sum of Rs.3,60,000/- towards loss of income. The said sum has been arrived at fixing the monthly income of the deceased at Rs.3,000/- as a coolie, deducting 1/3rd of the amount towards personal expenses and

applying the multiplier of 15. The Tribunal has also awarded a sum of Rs.20,000/- towards loss of love and affection, Rs.20,000/- towards pain and suffering and Rs.5,000/- towards funeral expenses. This Court is of the view that the findings rendered on quantum by the Tribunal are based on settled principles of law, probabilities of the case and weightage of evidence. Hence, the findings on quantum by the Tribunal are perfectly valid in the eye of law and no interference is required.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently the connected miscellaneous petition is closed. The appellant/Transport Corporation is directed to deposit the award amount with interest and costs, as ordered by the Tribunal, after deducting 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 being made, the respondents / claimants are permitted to withdraw their respective shares as per the ratio of apportionment made by the Tribunal, on making proper application.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

srk/smn

To

1 .The Motor Accidents Claims Tribunal
Sub Court Arani ,Tiruvannamalai District.

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

+1 cc to Mr.P.Satheesh kumar advocate sr71720

+1 cc to M.K.J.Sivakumar advocate sr71356

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