

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.08.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3298 of 2009
and
M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation Ltd,
Villupuram. ... Appellant/Respondent

Vs

1.Vijayalakshmi
2.Minor. Mathan
3.Saraswathi
(Minor respondent represented by his mother
Vijayalakshmi, 1st respondent herein)
... Respondents/Petitioners

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 24.04.2009 made in MCOP No.219 of
2007 on the file of the Motor Vehicles Accident Claims Tribunal
and Principal Sub Court at Tindivanam.

For Appellant : Mr.S.V.Vasanthakumar

For R1 & R2 : No Appearance

JUDGMENT

This appeal has been preferred by the appellant Transport
Corporation against the award of a sum of Rs.4,40,000/- towards
compensation to the respondents, due to the death of the husband
of the first respondent in a motor vehicle accident.

2.The case in brief, is as follows:

On fateful day, ie. on 24.01.2007, at about 11.00 hours,
the deceased Arumugam along with one Duraivelu and Vijayalakshmi
were standing in the left side of the road near Dr. Thambiraja
Hospital, Rajaji Street, Tindivanam. At that time, the
appellant/Transport Corporation bus bearing Regn.No.TN-32-N-2364
which was coming from Gingee to Chennai, came in a rash and

negligent manner and dashed against him. Due to the said impact, he sustained head injuries. Thereafter, he died on 15.02.2007 despite treatment. Stating that the accident had occurred due to rash and negligent driving of the driver of the bus, the legal heirs of the deceased filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.4,40,000/- with interest at the rate of 7.5% 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 submitted that due to the negligent act on the part of the deceased, he himself invited the accident. However, the Tribunal has erred in holding that the driver of the appellant-Transport Corporation bus was solely responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

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

6.Despite the service of notice and the names of the respondents having been printed in the cause list, there is no representation on their behalf.

7.P.W.1-Vijayalakshmi, wife of the deceased, deposed before the Tribunal that on the date of accident, while they were standing on the left side of the road, all of a sudden, a bus belonging to the appellant-Transport Corporation came and hit her husband, as a result of which he sustained grievous injuries and later, he died. The testimony of PW1 was corroborated by Ex.P1/F.I.R which was registered against the driver of the bus. The Tribunal, considering those materials and evidence available on record, has given a finding that the accident took place 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 finding rendered by the Tribunal.

8.In respect of quantum of compensation, the evidence of PW1 was to the effect that her husband was working as driver, besides doing agricultural work and earning a sum of Rs.10,000/- per month. However, the Tribunal relying upon Ex.P5/Employment Certificate, has fixed the monthly income of the deceased at Rs.3,000/- and arrived at annual income at Rs.36,000/-, in which deducted 1/3rd of the amount towards his personal expenses and

adopted the multiplier of '17' and ultimately calculated the compensation under the head "loss of income" at Rs.4,08,000/- (24,000/- X 17). The Tribunal has also awarded a sum of Rs.10,000/- towards educational expenses of the minor son of the deceased, Rs.10,000/- towards loss of consortium, Rs.5,000/- towards loss of love and affection, Rs.5,000/- towards transportation and Rs.2,000/- towards medical expenses. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the said heads and hence, the same need not be interfered with by this Court.

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 1 and 3 / claimants are permitted to withdraw their respective shares, as apportioned by the Tribunal, on making proper application. Regarding the share of the minor claimant/second respondent herein, the Tribunal shall invest the same in a nationalised bank till he attains majority and the first respondent / mother of the minor is permitted to withdraw the interest accrued thereon once in three months directly from the bank.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gbi
To

1. The Principal Sub Judge,
Motor Vehicles Accident Claims Tribunal,
Tindivanam.

copy to
The Section Officer,
VR Section,
Madras High Court.

C.M.A.No.3298 of 2009
and
M.P.No.1 of 2009

aa01/06/2020