

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.512 of 2009
and M.P.No.1 of 2009

The Managing Director
Tamil Nadu State Transport Corporation Limited
Division II, Chennimalai Road,
Erode.

...Appellant/Respondent

Vs

G.Indiraraj

... Respondent/Petitioner

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 19.03.2008 made in MCOP No.986 of 2005 on the file of the Motor Vehicles Accident Claims Tribunal, Fast Track Court IV, Coimbatore at Tiruppur.

For Appellant : Mr.S.V.Vasanthakumar

For Respondent : Notice Served

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.4,55,000/- towards compensation to the respondent, due to the death of his son in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 09.07.2005 at about 13.40 hours, the deceased Muruganathan was riding his motorcycle bearing Reg.No.TN-39-N-0590 from East to West direction in the NG-47 Main Road, Indira Colony Pirivu. At that time, the bus bearing Reg.No.TN-33-N-1658 belonging to the appellant Transport Corporation came in a rash and negligent manner at high speed from the same direction and dashed against the motorcycle. Due to the said impact, the deceased sustained grievous injuries and he was taken to the hospital and he died out of the injuries suffered by him. The respondent, who is the father of the deceased, filed a claim petition before the Tribunal claiming a sum of Rs.5,00,000/- as total compensation. On consideration of

the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.4,55,000/- 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 has submitted that the Tribunal has erred in holding that the appellant's bus driver was rash and negligent and was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.There is no representation on behalf of the respondent / claimant.

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

7.It was deposed before the Tribunal by P.W.2-Velusamy, eye-witness to the accident, that while he was standing near the accident spot on 09.07.2005 at about 13.40 hours, the deceased was riding the motorcycle in question and at that time, the bus belonging to the appellant Transport Corporation, bearing Reg.No.TN-33-N-1658 came in a rash and negligent manner and dashed against the deceased. The conductor of the bus was examined as R.W.1. He deposed before the Tribunal that the accident had occurred only due to the rash and negligent driving of the rider of the two-wheeler. Since there is no independent corroborative evidence available to support the version of R.W.1, 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 belonging to the appellant Transport Corporation. This Court is not inclined to interfere with the said factual finding rendered by the Tribunal.

8.In respect of the quantum of compensation, the Tribunal has awarded a sum of Rs.4,40,000/- towards loss of dependency. The Tribunal came to the conclusion that the deceased would have earned a sum of Rs.5,000/- per month as a Fabric Quality Controller in M/s.Eastman Apparels, Palankarai, Avinashi, based upon Exs.P9 and P10 and accordingly fixed the monthly income at Rs.5,000/-, arrived at the annual income at Rs.60,000/-, deducted 1/3rd of the amount towards personal expenses, adopted the multiplier of 11 and awarded the said sum of Rs.4,40,000/- towards loss of dependency. The Tribunal has also awarded a sum

of Rs.10,000/- towards loss of love and affection and Rs.5,000/- towards funeral expenses. The Tribunal has considered the materials and evidence properly and has awarded compensation towards the above 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, 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 respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

KM
To

- 1.The Motor Accidents Claims Tribunal
Fast Track Court IV, Coimbatore at Tiruppur.
- 2.The Section Officer,
VR Section, Madras High Court.

C.M.A.No.512 of 2009
and M.P.No.1 of 2009

ln[co]
srg 02/03/2020

WEB COPY