

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

C.M.A.No.1570 of 2011 and
M.P.No.1 of 2011

The Managing Director,
Tamil Nadu State Transport Corp.,
Villupuram.Appellant/Respondents

Vs.

1.Anjalai
2.Balakrishnan
3.Parasuraman
4.Minor Balamurugan
Minor rep by his mother
and next friend (1st Respondent)

5.Palaniyammal Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award dated 21.12.2009, in M.C.O.P.No. 6 of 2007 on the file of the Motor Accidents Claims Tribunal and Fast Track Court, Kalakuruchi.

For Appellant : Mr.K.J.Sivakumar

For Respondents : Not ready in notice

JUDGMENT

This Civil Miscellaneous Appeal is filed by the Tamil Nadu State Transport Corporation, challenging, the award passed in M.C.O.P.No. 6 of 2007 on the file of the Motor Accidents Claims Tribunal and Fast Track Court, Kalakuruchi. They have filed the present appeal questioning the liability as well as the quantum of compensation awarded by the Tribunal.

2. The claimants are the legal heirs of the deceased Chittrasu. The claimants have filed the above said claim petition on the ground that on 28.09.2004, at 12.00 hours, when the deceased Chittrasu son of Varadha Mopper was riding his

motorcycle towards his residence, on the mud portion of the road, near Arun rice mill, Latchiyam, Kallakurichi to Pukkiravari main road, a passenger bus bearing Registration No. TN 32 N 0692 came at a high and uncontrollable speed and hit against the TVS-50 bearing Registration No. TN 32 X 5148 and caused grievous and simple injuries and pain all over the body. Immediately he was admitted at Government Hospital, Kallakurichi. Thereafter, he was admitted at Government Mohan Kumaramangalam Medical College & Hospital, Salem. But, he died at the Government Hospital, Salem. According to the respondents/claimants, the rash and negligent driving of the driver of the said bus was the cause of the accident and therefore, they are liable to pay compensation of Rs.7,00,000/- to him.

3. On going through the records placed before the Tribunal, it appears that the Tribunal has rightly come to the conclusion that the accident has taken place due to the rash and negligent driving of the driver of the said bus and fastened the liability on the Transport Corporation.

4. On re-appreciation of the evidence and also taking note of the oral and documentary evidence, the finding arrived by the Tribunal cannot be found fault with and the same is hereby confirmed.

5. Coming to the point of quantum, as per the post mortem certificate, the deceased was aged about 45 years and in the absence of any contra evidence, the same has been taken. In view of the answer elicited in the cross examination of PW1, the deceased was a 'mason' on the date of the accident. Accordingly the income of the deceased is fixed at Rs.3,600/- taking into consideration, the avocation of the deceased at the relevant point of time and also 1/3 deduction is carried out towards the personal expenses of the deceased. The proper multiplier to be adopted in the instant case is 15 as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. The Tribunal has awarded compensation amount of Rs.4,32,000/- which cannot be faulted with. This court feels that the compensation awarded under other non-conventional heads are just and reasonable. In view of the positive evidence adduced before this Court and in the absence of any contra evidence, the plea raised by the Transport Corporation stands negative.

6. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(ii) The order passed by the Tribunal is upheld.

(iii) The present appellant - Tamil Nadu State Transport Corporation is directed to deposit the entire compensation awarded by the Tribunal i.e., Rs.4,64,000/- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No. 6 of 2007, dated 21.12.2009, on the file of the Motor Accidents Claims Tribunal and Fast Track Court, Kalakuruchi within a period of twelve weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made by the present appellant, the respondents 1,2,3 and 5 herein are permitted to withdraw the entire amount as apportioned by the Tribunal after following the due process of law.

(v) The fourth respondent herein is a minor, and therefore, his compensation amount is ordered to be deposited in any one of the nationalized bank until he attains majority and the first respondent is permitted to withdraw the interest directly from the bank, once in three months in order to maintain the minor.

Sd/-

Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

mbi

To

1. The Motor Accidents Claims Tribunal,
The Fast Track Court,
Kalakuruchi.

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

+1cc to Mr.KJ.Sivakumar, Standing Counsel SR.No.13591

C.M.A.No.1570 of 2011 and
M.P.No.1 of 2011

NMI (CO)
GMY(06/05/2019)