

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CMA.No.1916 of 2011

S.Ambika

... Appellant/Claimant

Vs.

The Managing Director,
Thiruvalluvar Transport Corporation Limited,
(Now called as State Express

Transport Corporation Limited)
Pallavan Salai,
Chennai-2.

... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the orders dated 23.07.2010 passed by the Subordinate Judge, Motor Accidents Claims Tribunal, Maduranthagam in MCOP No.130 of 2000.

For Appellant : Ms.Y.Jayanthi Bhaskar

For Respondent : Mr.S.Sairaman

J U D G M E N T

The appellant is the daughter of claimant in M.C.O.P.No.130 of 2000 on the file of the Subordinate Judge, Motor Vehicle Accidents Claims Tribunal, Maduranthagam and the said claim petition was filed under Section 166 of the Motor Vehicles Act seeking compensation of Rs.1,00,000/- for the injuries sustained by the claimant in a road accident that took place on 04.02.1994.

2. The brief case of the claimant is as follows: On 04.02.1994, the claimant Ellammal was walking along G.S.T.Road, Thenpakkam. At about 7.30 a.m., a speeding bus bearing registration No.H-908.F.L.12 belonging to the respondent, hit the claimant, as a result of which, she sustained injuries all over her body. According to the claimant, the rash and negligent driving of the driver of the bus bearing registration

No.H-908 F.L.12, belonging to the State Transport Corporation Limited was the cause of the accident and therefore, they are liable to pay compensation to the claimant.

3. During the pendency of the claim petition, Ellammal died and her daughter, the appellant herein was impleaded as second claimant. Her specific contention is that, her mother Ellammal died only on account of the accident and therefore, she prayed compensation for the death of her mother Ellammal. The State Transport Corporation Limited Chennai contested the claim petition.

4. After analysing the evidence on record, the tribunal dismissed the entire claim petition on the following grounds.

(i) the deceased Ellammal did not adduce any documentary evidence to show the nature of injuries sustained by her in the road accident.

(ii) the second claimant did not adduce sufficient documentary evidence to show that her mother died only on account of the accident.

5. Aggrieved over the orders dated 23.07.2010 passed by the Subordinate Judge, Motor Accident Claims Tribunal, Maduranthagam in MCOP No.130 of 2000, the second claimant has filed the present appeal under Section 173 of the Motor Vehicles Act.

6. Mr.Y.Jayanthi Bhaskar, learned counsel appearing for the appellant would contend that though the deceased Ellammal died on account of the accident, the tribunal dismissed the entire claim petition by observing that no documentary evidence was adduced on the side of the claimant to show that the deceased Ellammal sustained injuries on account of accident.

7. Per contra, Mr.S.Sairaman, learned counsel appearing for the respondent has disputed the manner of the accident as alleged by the claimant and further contended that the orders passed by the tribunal dismissing the entire claim petition is perfectly in order and therefore, cannot be interfered with by this court.

8. A perusal of Drug Card (Ex.P2) issued by the Chengalpattu Medical College Hospital shows that the deceased Ellammal sustained a fracture on her right leg. The date of accident is 04.02.1994 and Ellammal died on 25.01.1997. The deceased Ellammal was aged 32 years on the date of accident as

per Ex.P2. Considering the nature of injury and the age of the deceased Ellammal, it can be safely concluded that the deceased Ellammal would not have died on account of the accident .

9. However, it is clear from a copy of the first information report (Ex.P1) and drug card (Ex.P2) that the deceased Ellammal sustained fracture on her right leg on account of the accident and she was admitted as an inpatient on 04.02.1994 in Chengalpattu Medical College Hospital and discharged on 15.02.1994. Though the respondent State Transport Corporation Limited, Chennai has disputed the manner of the accident, did not adduce any evidence to substantiate their contention. The FIR was registered immediately after the accident and Ex.P2 also speaks about the road accident that took place on 04.02.1994. Therefore, the tribunal was wrong in dismissing the entire claim petition.

10. In the claim petition, it is mentioned that the deceased Ellammal was earning a sum of Rs.25/- per day. Therefore, monthly income of the deceased Ellammal is fixed at Rs.750/- (25 x 30 = 750) per month. Further, on account of accident, the deceased Ellammal would not have been in a position to attend to her regular work atleast for six months. Thus, a sum of Rs.4,500/- (750 x 6 = 4,500) is awarded towards loss of income. Apart from that, a sum of Rs.2,000, 5,000, 2000 are awarded under the heads "attender's charges, " transportation charges" and " loss of articles" respectively. Since the claimant died, no amount can be awarded towards " partial permanent disability" , " pain and sufferings" , " extra nourishment" etc. The compensation awarded to the claimant under various heads is extracted hereunder.

S1 No	Heads	Amount in Rs.
1	Loss of income	4,500
2	Attender's charges	2,000
3	Transportation charges	5,000
4	Loss of articles	2,000
	Total	13,500

The above said amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

11. In the result,

(i) The appeal is allowed in part. No costs. The orders passed by the tribunal is set aside.

(ii) The claimant/appellant is entitled to a compensation of Rs.13,500/- with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

(iii) The respondent/ State Transport Corporation Limited is directed to deposit the compensation of Rs.13,500/- along with interest, within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made by the respondent, the claimant/appellant is entitled to withdraw the same, after following due process of law.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Madurandakam.

2. The Section Officer,
V.R.Section, High Court, Madras.

+1 cc to Mr.J.Mahalingam, Advocate Sr.No.7689

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EV(CO)
CSL/02.04.2019

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