

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.211 of 2012

and

M.P.No.1 of 2012

The Managing Director,
The Tamilnadu State Transport Corporation Limited,
Villupuram. .. Appellant/1st Respondent

Vs.

1.Sudha ...1st Respondent/Claimant

2.Saroja ... 2nd Respondent/2nd Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 28.04.2011 passed in M.C.O.P.No.688 of 2006 on the file of the Motor Accident Claims Tribunal / Sub Court, Chidambaram.

For Appellant : Mr.S.V.Vasantha Kumar
For Respondents : No appearance

J U D G M E N T

The appellant / Tamilnadu State Transport Corporation Limited is the first respondent in M.C.O.P.No.688 of 2006 on the file of the Motor Accident Claims Tribunal / Sub Court, Chidambaram. The first respondent / claimant filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.15,00,000/- for the death of her husband Kodiyarasan in a road accident on 24.10.2006.

2. The case of the claimant is that on 24.10.2006, Kodiyarasan (deceased) was riding his motorcycle bearing Registration No. TN 10 K 5730 on Aranthangi - Meensuriti Road and at about 12.45 P.M., when he was nearing Papagudi stream, a speeding bus bearing Registration No. TN 32 N 1995 hit his motorcycle, as a result of which, he sustained fatal injuries and died in the hospital on the same day. According to the claimant, the rash and negligent driving of the driver of the bus belonging to the appellant / Tamilnadu State Transport Corporation Limited was the cause of the accident and therefore they are liable to pay compensation.

3. The learned Subordinate Judge / Motor Accident Claims Tribunal, Chidambaram after analysing the evidence on record, awarded a compensation of Rs.9,36,000/- together with interest at the rate of 7.5% per annum to the claimant. Aggrieved over the orders passed by the Tribunal, the Tamilnadu State Transport Corporation Limited has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Mr.S.V.Vasantha Kumar, learned counsel appearing for the appellant / Tamilnadu State Transport Corporation Limited contended that the deceased was riding his motorcycle under the influence of alcohol and therefore, the Tribunal was wrong in fastening liability on the part of the Tamilnadu State Transport Corporation Limited. He also contended that the quantum of compensation awarded by the Tribunal is on the higher side.

5. No appearance on behalf of the respondents.

6. A perusal of the postmortem certificate (Ex.P3) shows that the deceased was not under the influence of alcohol, at the time of the accident. In fact, the Tribunal after analysing the oral and documentary evidence adduced on the side of the claimant, had clearly held that the driver of the bus was rash and negligent. It is also pertinent to point out that the driver of the Tamilnadu State Transport Corporation bus was not examined as a witness by the appellant. In the facts and circumstances, I do not see any reason to interfere with the findings recorded by the Tribunal.

7. As far as quantum of compensation is concerned, the Tribunal had awarded a just compensation of Rs.9,36,000/-, after considering the well laid principles of law, which were in vogue at the time of passing of the orders and the same cannot be said to be on the higher side.

8. In the result,

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

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

(iii) The appellant / Tamilnadu State Transport Corporation Limited is directed to deposit the compensation awarded by the Tribunal i.e., Rs.9,36,000/- (less the amount 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.688 of 2006 on the file of the Motor Accident Claims Tribunal / Sub Court, Chidambaram

within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the first respondent / claimant is at liberty to withdraw the same after following due process of law.

Sd/-

Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
The Subordinate Court,
Chidambaram.

C.M.A.No.211 of 2012

SJ(CO)
GMY (21/07/2020)



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