

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2156 of 2012

The Managing Director,
Tamilnadu State Transport
Corporation Ltd., Villupuram Division,
Villupuram ... Appellant/Respondent
Vs.

1. R. Pushpalatha
2. R. Veeraraghavaiah .. Respondents/Petitioners

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree passed by the Motor Accidents Claims Tribunal (II Small Causes Court), Chennai, in M.C.O.P.No.523 of 2005, dated 12.11.2010.

For Appellant : Mr.V.Kasiviswanathan
For RR1 and 2 : Mr.K.Ramanatha Reddy

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the appellant/Transport Corporation challenging the award and decree passed by the learned II Judge, Motor Accidents Claims Tribunal, II Small Causes Court, Chennai, in M.A.C.T.O.P.No.523 of 2005.

2. The appellant is the Tamil Nadu State Transport Corporation Limited and the respondents are the parents of the deceased namely, Sandeep Kumar.

3. The respondents herein have filed a claim petition before the Tribunal in M.A.C.T.O.P.No.523 of 2005 alleging that on 09.12.2004 at about 20.00 hours, when the deceased was waiting at Poonamalee bus stop, the driver of the Tamil Nadu State Transport Corporation Bus bearing Registration No.TN-74-N-0607 came in a very high speed endangering to public safety, chasing another bus and hit the deceased and as a result of which, the deceased sustained fatal injuries and died. At the time of the accident, the deceased was aged 21 years, studying B.E. Computer Science. For the death of the said Sandeep Kumar, the parents of the deceased have filed the above claim petition before the Tribunal claiming a sum of Rs.25,00,000/- as compensation.

4. Before the Tribunal, on behalf of the claimants, 2 witnesses were examined as P.Ws.1 and 2 and 13 documents were marked as Exs.P1 to P13. On the side of the respondent before the Tribunal, one witness was examined as R.W.1 and no document was marked.

5. The father of the deceased examined himself as PW.1 and he had deposed in his oral evidence that the negligence is on the part of the driver of the bus and the same is the cause for the accident. P.W.2. has stated that the bus driven by its driver came in a rash and negligent manner and hit the deceased.

6. The appellant herein / Transport Corporation has filed a counter statement before the Tribunal that the driver of the bus drove the same with due care and caution by observing traffic rules and in any way, he is not responsible for the accident.

7. On a perusal of the records, it is seen that the Tribunal, based upon the oral and documentary evidence, has come to the conclusion that the accident has taken place due to the rash and negligent driving of the driver of the Tamil Nadu State Transport Corporation Bus bearing Registration No.TN-74-N-0607. This Court is also of the considered view that the accident had occurred only due to the rash and negligent driving of the driver of the appellant transport corporation bus and hence, the finding rendered by the Tribunal is hereby confirmed.

8. On the point of quantum, the Tribunal, after taking note of the fact that the deceased was a student studying B.E. Computer science and he was aged about 23 years at the time of the accident, has fixed the notional monthly income as Rs.3,000/- and after adding a sum of Rs.1,500/- towards future prospects, has fixed the monthly income of the deceased as Rs.4,500/- and as per the decision of the Hon'ble Supreme Court in Sarla Verma v. Delhi Transport Corporation [2009 (2) TN MAC 1 (SC)], applied the multiplier of 14 and after deducting 1/2 towards personal expenses of the deceased fixed the income at Rs.2,250/- per month and arrived a sum of Rs.3,78,000/- [Rs.2,250 x 12 x 14 = Rs.3,78,000/-] towards pecuniary loss. Since the age of the deceased was properly fixed and correct multiplier has been adopted by the Tribunal to arrive at a calculation under the head of pecuniary loss, there is no substantial change in the compensation awarded by the Tribunal under the said head.

9. Further, the Tribunal has also awarded a sum of Rs.30,000/- towards loss of love and affection, a sum of

Rs.16,000/- towards transport expenses and a sum of Rs.6,000/- towards funeral expenses and the said amounts awarded by the Tribunal also found to be just and reasonable. On the whole, the quantum of compensation awarded by the Tribunal cannot be said to be excessive and hence, this Court is of the considered view that the appeal is devoid of merits and the same is liable to be dismissed.

10. In the result, the Civil Miscellaneous Appeal is dismissed and the Judgment and decree dated 12.11.2010 made in M.C.O.P.No.523 of 2005 on the file of the Motor Accidents Claims Tribunal (II Small Causes Court), Chennai, is confirmed. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

11. If the award amount with accrued interest has not been deposited, the appellant-Transport Corporation is directed to deposit the entire award amount along with interest at the rate of 7.5% per annum from the date of claim petition, less the amount already deposited, if any, to the credit of M.C.O.P.No.523 of 2005 on the file of the Motor Accidents Claims Tribunal, (II Small Causes Court), Chennai, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the respondents herein/claimants are permitted to withdraw the entire award amount with proportionate interest, in the same apportionment as apportioned by the Tribunal, less the amount already withdrawn, if any.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal,
(II Small Causes Court), Chennai.
2. The Section Officer,
V.R. Section, High Court, Madras - 104.

AKM/24.02.2020/3P- 3C /

C.M.A.No.2156 of 2012