

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.2937 of 2011
and
MP.No.1 of 2011

The Managing Director,
Tamil Nadu State Transport Corp. Ltd.,
Division - I,
Villupuram. ...Appellant/Respondent

.Vs.

1.K.Kumar

2.Minor K.Divya

3.Minor K.Vidya

(R2 and R3 are minors represented by
guarding and next friend farther Kumar)

4.Saroja

5.S.Patabiraman ... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 30.07.2010 passed in MCOP.No.337 of 2007 on the file of the Motor Accident Claims Tribunal / Chief Judge, Small Causes Court, Chennai.

For Appellant : Ms.S.Ponmozhi

For Respondents : No appearance

J U D G M E N T

The Tamil Nadu State Transport Corporation Limited, the respondent in MCOP.No.337 of 2007 on the file of the Motor Accidents Claims Tribunal/ Chief Judge, Small Causes Court, Chennai has filed the present appeal questioning the liability and the quantum of compensation awarded by the Tribunal. The claimants filed the above claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of MACT Rules seeking compensation of Rs.14,00,000/- for the death of one Vishnu Gandhi, wife of the first claimant, mother of the claimants 2

and 3 and daughter of the claimants 4 and 5 in a road accident that took place on 30.12.2006.

2. The case of the claimants is that on 30.12.2006, the deceased Vishnu Gandhi was riding her TVS Scooty bearing Registration No. TN 22 F 0533 along with one Mukilan (since deceased) as pillion rider from Adambakkam to R.Ventaraman Nagar, Chennai along Jawaharlal Nehru 100 feet road. At about 11.15 hours, a speeding bus bearing Registration No. TN 32 N 1974 belonging to the Tamil Nadu State Transport Corporation Limited hit the TVS Scooty, as a result of which, the deceased Vishnu Gandhi and the deceased Mukilan sustained fatal injuries and died on the spot. According to the claimants, the rash and negligent driving of the driver of the bus belonging to the Tamil Nadu State Transport Corporation Limited was the cause of the accident and therefore, they are liable to pay compensation to them.

3. The learned Motor Accidents Claims Tribunal / Chief Judge, Small Causes Court, Chennai after analysing the evidence on record, awarded a compensation of Rs.7,90,000/- together with interest at the rate of 7.5% per annum to the claimants. Aggrieved over the orders passed by the Tribunal, the Managing Director, Tamil Nadu State Transport Corporation Limited has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. In the appeal grounds, it is stated that the accident occurred only due to the negligence on the part of the deceased Vishnu Gandhi and that the driver of the appellant / Tamil Nadu State Transport Corporation Limited was not at all responsible for the accident. Another contention raised in the grounds is that the Tribunal adopted wrong multiplier while calculating loss of income.

5. Ms.S.Ponmozhi, learned counsel appearing for the appellant contended that since the claimants did not file any legal heirship certificate to show that the claimants 4 and 5 are the parents of the deceased, no amount can be awarded to them.

6. No appearance on behalf of the respondents.

7. In the instant case, the age of the deceased Vishnu Gandhi is admittedly 33 years on the date of the accident and the Tribunal had adopted multiplier 16. As per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121, the proper multiplier to be adopted in the instant case is 16 and therefore, the Tribunal was right in adopting multiplier '16'. As far as the negligence aspect is concerned, the Tribunal had clearly held that the driver of the Tamil Nadu State Transport Corporation Limited bus was rash and negligent in driving his vehicle and the same is based on the evidence adduced by PW1 and PW2. A copy of First Information Report (Ex.P1) and a copy of rough sketch (Ex.P2) also go to show that the driver

of the bus was rash and negligent in driving his vehicle. In fact, the Tribunal has dealt with this aspect in extenso in its order dated 30.07.2010 and all the observations made by the Tribunal are perfectly in order.

8. It is contended that the deceased Vishnu Gandhi was running a beauty parlour in the name and style of 'M/s.Jupitor Beauty Clinic' and was earning a sum of Rs.10,000/- per month. In the absence of income proof, the Tribunal has fixed the notional income of the deceased as Rs.6000/- per month. The Tribunal after considering various aspects of the case, has awarded a compensation of Rs.7,90,000/- to the claimant and therefore, I do not see any reason to interfere with the orders passed by the Tribunal.

9. In the result,

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

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

(iii) The appellant / Tamil Nadu State Transport Corporation Limited is directed to deposit the compensation awarded by the Tribunal i.e., Rs.7,90,000/- (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 MCOP.No.337 of 2007 on the file of the Motor Accidents Claims Tribunal / Chief Judge, Small Causes Court, Chennai within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the respondents / claimants are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The apportionment made by the Tribunal shall be kept intact.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
The Chief Judge,
Small Causes Court,
Chennai.

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

+1cc to Mr.N.Anand, Advocate, S.R.No. 82898

CMA.No.2937 of 2011
and
MP.No.1 of 2011

RSV (CO)
GN (20/02/2020)



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