

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.246 of 2019
and C.M.P.No.1003 of 2019

State Express Transport Corporation (Tamilnadu) Ltd.,
(Formerly Thiruvalluvar Transport Corporation Ltd.)
rep. By the Managing Director Chennai

..Appellant/1st Respondent

[Cause title accepted vide order dt.16.09.2002
in CMP No.13306/2002]

Vs.

1.S.Azmal Hussain @ Azmal

2.Farida Banu (minor) rep. by her
brother and next friend S.Azmail Hussain @ Azmal

..R1 & R2/Claimants 1 & 2

3.A.Azmalkhan

4.National Insurance Co. Ltd. ..R3 & R4/R2 & R3

5.Amina Bibi
(R5 remained exparte before Lower Court)

6.Tmt.E.Sethu .. Respondents 5 & 6/Respondent 4 & 5
[No relief is claimed against respondents 3, 4 & 6
and they are given up in the appeal]

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree made in M.A.C.T.O.P.No.1303 of 2000 on the file of the Principal Subordinate Judge, (Motor Accident Claims Tribunal), Arni dated 28.09.2001.

For Appellant : Mr.M.Krishnamoorthy

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant-Transport Corporation challenging the judgment and decree dated 28.09.2001 made in M.A.C.T.O.P.No.1303 of 2000 on

the file of the Principal Subordinate Judge, (Motor Accident Claims Tribunal), Arni.

2. Heard the learned counsel appearing for the appellant and perused the materials available on record.

3. The appellant-Transport Corporation is the first respondent in M.A.C.T.O.P.No.1303 of 2000, on the file of the Principal Subordinate Judge, (Motor Accident Claims Tribunal), Arni. The respondents 1 & 2 filed the said claim petition, claiming a sum of Rs.15,00,000/- as compensation for the death of one Sheikensha, father of the respondents 1 and 2, who died in the accident that took place on 07.05.1995. The Tribunal, considering the pleadings, oral and documentary evidence held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation and directed the appellant to pay a sum of Rs.10,73,000/- as compensation to the respondents 1, 2 & 5. Challenging the said award dated 28.09.2001 made in M.A.C.T.O.P.No.1303 of 2000 granting compensation to the respondents 1, 2 & 5, the appellant-Transport Corporation has come out with the present appeal.

4. The contention of the learned counsel appearing for the appellant-Transport Corporation that the Tribunal erred in fixing the entire negligence on the part of the driver of the bus and liability on the appellant and that Tribunal ought to have fixed contributory negligence on the part of the driver of the van who was rash and negligence and solely responsible for the accident and the amounts awarded by the Tribunal under different heads are excessive, are contrary to the materials available on record. The Tribunal, considering the evidence of R.W.1, driver of the bus, Ex.P1- FIR registered against the driver of the bus, Ex.P4 - rough sketch and Ex.P5 - Motor Vehicle Inspector's report, held that the accident occurred only due to rash and negligent driving by the driver of the bus. The Tribunal, considering the oral and documentary evidence in proper perspective, awarded a sum of Rs.10,73,000/- as compensation to the respondents 1, 2 & 5 under different heads, which are just compensation and not excessive. In the above circumstances, this court is not inclined to interfere with the said award of the Tribunal.

5. In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.10,73,000/- awarded by the Tribunal as compensation to the respondents 1, 2 & 5, along with interest and costs is confirmed. The appellant/Transport Corporation is directed to deposit the award amount alongwith interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of

this judgment. On such deposit, the first and fifth respondents are permitted to withdraw their share of the award amount, on the basis of apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn. The share amount of the minor 2nd respondent is directed to be deposited in any one of the Nationalised Bank till she attains majority. The first respondent being the brother of the minor is permitted to withdraw the accrued interest once in three months. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

rgr/mtl

To

1.The Principal Subordinate Judge,
Motor Accident Claims Tribunal,
Arni.

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

+1cc to Mr.M.Krishnamoorthy, Advocate SR.No.3322

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Rgn (CO)
GMY (23/07/2019)

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