

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3364 of 2011
and
M.P.No.1 of 2011

Metropolitan Transport Corporation Limited,
Represented by its Managing Director,
No.2, Pallavan Salai,
Chennai - 600 002 ... Appellant / Respondent

Vs.

1.Shajahan
2.Minor.Hameed Imtiaz
3.Minor.Shajidha Parveen
(Minors rep.by father & next friend Shajahan) ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 29.01.2010 made in M.C.O.P.No.1740 of 2006 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court II, Chennai.

For Appellant : Mr.S.S.Swaminathan

JUDGMENT

The respondent-Transport Corporation before the Tribunal, is the appellant herein. This Civil Miscellaneous Appeal has been filed against the order and Decree dated 29.01.2010 made in M.C.O.P.No.1740 of 2006 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court II, Chennai.

2. On 18.08.2003 at about 8.30 p.m., P.W.1 along with the deceased, were travelling in two wheeler bearing Registration No.TN 05 F 0114 proceeding from East to West on Koonur High Road. At that time, a bus bearing Registration No.TN 01 N 1838 driven by the Transport Corporation's driver in a rash and negligent manner, came from the opposite direction and dashed against the appellant and injured had died on the spot and accordingly, filed the claim petition.

3. Before the Tribunal, P.W.1 to P.W.3 were examined and Exhibits P1 to P8 were marked and the driver of the Transport Corporation bus was examined as R.W.1. Based upon the oral and documentary evidence, the Tribunal has assessed the compensation a sum of Rs.6,78,000/- with interest at the rate of 9%. Challenging the same, the Transport Corporation has preferred this appeal.

4. The learned counsel for the appellant-Transport Corporation would contend about the rash and negligence driving of the deceased and also on the liability and quantum of compensation fixed by the Tribunal.

5. After going through the documentary evidence and evidence of the occurrence witness, the Tribunal has rightly come to the conclusion that the accident had taken place due to the rash and negligent driving of the bus belonging to Transport Corporation and accordingly, the said finding is hereby confirmed.

6. Taking into consideration the fact that the deceased was aged about 28 years and was employed in Diamond Foot Wear, the Tribunal has assessed the income at sum of Rs.4,500/-, based upon Exhibit P5-Salary Certificate and also deducted 1/3rd towards his personal expenses and accordingly, fixed the loss of income at Rs.6,48,000/-. Taking into consideration, the entirety of the compensation, the same has been arrived at by the Tribunal, which does not seem to be excessive.

7. In such view of the matter, this Civil Miscellaneous Appeal is dismissed. The Insurance Company has submitted that the entire amount has already been deposited. It is open to the claimant to file petition before the Tribunal for withdrawal of the compensation amount. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1) The Motor Accident Claims Tribunal,
Additional District Judge,
Fast Track Court II, Chennai.

+1 cc to Mr.S.S.Swaminathan, Advocate, S.R.No.16928

GP(CO)
SSM(15/07/2019)

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