

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.1380 of 2016
and
C.M.P.No.10549 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation, Kudanthai Division-I,
Railway Station Road,
Kumbakonam Talk and Town,
Tanjore District. .. Appellant /Respondent

Vs.

1.Mallika

2. Ramachandran ... Respondents/Petitioners

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.02.2015 made in M.C.O.P.No. 264 of 2013 on the file of the Motor Accident Claims Tribunal, Additional Subordinate Judge, Mayiladuthurai.

For Appellant : Mr.D. Venkatachalam

For Respondents : Mr.T. Gopinath

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 27.02.2015 made in M.C.O.P.No. 264 of 2013 on the file of the Motor Accident Claims Tribunal, Additional Subordinate Judge, Mayiladuthurai.

2.The brief facts of the case is as follows:

On 26.02.2013 at about 9:15 hours when the deceased was proceeding in his two wheeler the Tamil Nadu State Transport corporation bus bearing Registration No.TN-49-N-1944 came in the opposite direction and dashed against the deceased. In the

impact the rider of the two wheeler sustained head injuries and admitted in the Government Hospital, Mayiladuthurai, but unfortunately he died in the hospital. Hence, the legal heirs filed a claim petition before the Tribunal seeking compensation for a sum of Rs.15,00,000/-.

3.The appellant herein who is the respondent before the Tribunal has filed a counter statement denying the mode of the accident as stated by the claimants and further states that the negligence is on the driver of the bus, who drove the same in an rash and negligent manner and invited the accident and also states that the compensation claimed is highly excessive.

4.The Tribunal upon consideration of the evidence available on record, has awarded a total compensation of Rs.8,02,000/- with interest at the rate of 7.5% per annum from the date of petition, to the respondents/claimants. Aggrieved against the same award and liability, the Transport Corporation has preferred this appeal to set aside the same.

5. Heard both sides and perused the materials available on record.

6. It is argued by the the appellant/Transport Corporation is very much aggrieved against the liability as well as the quantum awarded by the Tribunal. The grievance raised by the appellant is that the Tribunal went wrong in fixing entire negligence on the part of the driver of the transport Corporation and in the absence of any proof regarding the age and income of the deceased the tribunal has fixed monthly income of the deceased at Rs.9,000/- is on the higher side. It has been further stated that the amount awarded under other heads are also without any basis and in the absence of any witness examined before the Tribunal, the assessment of the Tribunal, is highly erroneous and certain amount would have been deducted as contributory negligence, due to the fact that negligence is also on the part of the driver of the bus.

7. It is seen from the records that the Tribunal after analysing the evidence and documents placed before it, it has concluded that the accident occurred only due to the rash and negligent driving on the part of the driver of the bus and the Tribunal has further observed, that the deceased had died only due to the said injuries sustained by him in the accident.

8. The Tribunal has also observed the fact that the injured died on the same day when the accident has occurred and this aspect was not disputed by the appellant. The tribunal has given a finding that the deceased was 27 years, was a bachelor and doing painting work, and earning Rs.12,000/- per month,

deducting 50% towards personal personal expenses and Rs.4,500/- as monthly income and by applying multiplier 13, has awarded a sum of Rs.7,02,000/-(4,500x12x13) towards loss of income and awarded Rs.25,000/- towards funeral expenses and awarded Rs.50,000 and Rs.25,000/- to the 1st and 2nd respondent respectively under the head love and affection. Thus, totalling to Rs.8,02,000/- awarded as compensation by the Tribunal is proper, in view of the entire evidence as well as the documents. Hence, this Court is of the view that the said compensation does not require any interference by this Court.

9. In view of the above discussions, the award passed by the Tribunal is confirmed. This Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

10. The appellant/Transport Corporation shall deposit the entire compensation amount, along with interests and costs, as awarded by the Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the respondents/claimants are permitted to withdraw the award amount, alongwith interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
Mayiladuthurai.

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

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No. 65734

+1cc to Mr.T.Gopinath, Advocate, S.R.No. 65613

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and

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CP (CO)

GN(21/10/2020)