

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2019

CORAM

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.2542 of 2012
and
M.P.No.1 of 2012

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram. ... Appellant/2nd Respondent

...vs...

1. Sarala
2. Rupanraj (minor)
3. Dhina (minor) ... Respondents 1 to 3/Claimants
(Both minors are rep. by their mother and next friend)
4. The Managing Director,
Karnataka State Transport Corporation,
Central Office, K.H.Road, Santhi Nagar,
Bangalore - 560 027.
5. Poongole
6. B.Karunanithi ... Respondents 4 to 6/
Respondents 1,3 & 4

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Thiruvannamalai made in M.C.O.P.No.67 of 2010 dated 14.02.2012.

For Appellant : Mr. S.V.Vasantha Kumar

For Respondents : No appearance - 1st Respondent
Mr. V.Ramesh for R4
Mr.A.Rajendran for R5 and R6

J U D G M E N T

The legal representatives of one Sugumar/wife and minor sons, have filed the claim petition before the Claims Tribunal claiming a compensation of Rs.50,00,000/-, relating to a motor vehicle accident, which occurred on 11.09.2007 at about 23.45 hours, stating that the accident had happened due to head-on-

collision between the two buses, one belonging to Tamil Nadu State Transport Corporation (appellant herein) and another belonging to Karnataka State Transport Corporation (fourth respondent herein).

2.The Tribunal based on the witnesses account and the documents produced by both sides has fixed the negligence on the part of the drivers of the appellant transport corporation bus and the fourth transport corporation bus.

3.Aggrrieved over the findings on negligence as well as the quantum of compensation fixed by the Tribunal at 50% on the Tamil Nadu State Transport Corporation bus, this Civil Miscellaneous Appeal has been filed.

4.The learned counsel for the appellant/ Tamil Nadu State Transport Corporation submitted that the Tribunal has erred in coming to the conclusion that the deceased / driver of the appellant-Transport Corporation bus driver, was also responsible for the accident, when the fact remained that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the fourth respondent herein. On the other hand, he submitted that the Tribunal has failed to consider the evidence of the Conductor and has erroneously fixed the income of the deceased, adopted the multiplier of 17 instead of 16 and in any event, the compensation awarded is on the higher side.

5.Despite the service of notice, there is no representation on behalf of the respondents/claimants.

6.The learned counsel for the fourth respondent / Karnataka State Transport Corporation, has submitted that Tribunal has analysed the materials on record in detail and has rightly fixed the negligence on the part of both the drivers of the buses equally and has rightly awarded the compensation, which is just, fair and reasonable.

7.Heard the learned counsel for the appellant and the fourth respondent and perused the materials available on record.

8.A perusal of the award of the Tribunal would go to show that the accident had happened on 11.09.2007 at 11.45 p.m. The conductor of the appellant Transport Corporation bus was examined as P.W.2. The wife of the deceased was examined as P.W.1. Ex.P.8 and Ex.P.9 Motor Vehicle Inspection Reports, in respect of both the buses have been filed wherein it is stated as follows:

Ex.P.8 : " Front Right Suspension with Main Axcle, Grill, Bumper, Front Curt, Front Side Chasis, Right

Wheel, Gear Box, Right Column, Dash Board, Driver Seat 3 persons seat, 2 Nos.with platform front w/s glass (single Place) Right Front Head light, Right side Body two metres from front, Front Right Tyre, Tube damaged"

Ex.P.9 : " Front Right Tyre, Tube, disk, Right side body 5 metre from front, front w/s glass, front wheel, front Bumber, both Headlights, Indicator, Top body two metre from front, Radiator, Fan baf, water bump, front gear box, column, front wheels, dash board, banet, front right suspension with main axcle, left side body 2 metre from front with foot step, Rear left w/s glass, 3 person seat and Driver seat with platforms damaged".

Placing reliance on the above documents, the Tribunal has fixed the negligence on both the bus drivers and accordingly, fastened the liability on the appellant Transport Corporation and the fourth respondent at 50% each, which in the considered view of this Court are perfectly valid and hence, the same warrant no interference.

9.As regards the quantum of compensation, the Tribunal has fixed a sum of Rs.7,261/- as the loss of contribution of the deceased to the family based on Ex.P.4 Salary Certificate, adopted the multiplier of 17 and has arrived at the loss of dependency at Rs.14,81,244/-. Further, the Tribunal has awarded sums of Rs.15,000/- and Rs.75,000/- towards Funeral Expenses and loss of love and affection respectively. Thus, the Tribunal has awarded a sum of Rs.15,71,244/- with interest at the rate of 7.5% per annum from the date of petition, as total compensation payable by both the Transport Corporations to the claimants. This Court is of the considered view that the Tribunal has rightly taken note of all the evidence and documents on record and has assessed the just compensation which needs no interference.

10.In such view of the matter, confirming the award of the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous petition is closed.

11.It is admitted by both parties that Karnataka State Transport Corporation, the fourth respondent herein, has deposited their share of compensation before the claims Tribunal. As such, the appellant/Transport Corporation is directed to deposit their share of compensation, along with interest and costs, as awarded by the Claims 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 major claimants are permitted to withdraw their respective shares, on making proper application before the Tribunal. With regard to the shares of the minor respondents 2 and 3, the same shall be deposited in a fixed deposit in any one of the Nationalised Banks, till they attain majority. The interest accrued in the bank deposit shall be withdrawn by the first respondent-mother of the minors, once in three months directly from the bank, which shall be utilised for the benefit and welfare of the minors.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.Motor Accidents Claims Tribunal, Chief Judicial Magistrate,
Thiruvannamalai.

2.The Section Officer, V.R.Section,
Madras High Court, Chennai-104.

+1cc to Mr.T.Thiyagarajan, Advocate Sr.68321

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srg 27/08/2020

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