

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.08.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.2981 of 2012

The Managing Director,
Tamil Nadu State Express Transport
Corporation Limited,
Pallavan Salai, Chennai -2 ... Appellant/ Respondent No.1

...vs...

1. Manikandan
2. Minor Prabhu
3. Minor Veerappan
4. Minor Sampath
(minors are represented by guardian/
elder brother/ 1st respondent)
5. Lakshmi ... Respondent 1 to 5/ Petitioners1 to 5
6. Vaidiyanathan (Set Exparte in Lower court- Respondent6/
Respondent2
7. M/s Royal Sundaram Alliance
Insurance Co.Ltd., Sundaram Towers,
45 & 46, Whites Road, Chennai-14. ...7th Respondent/
Respondent3

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 31.03.2011 made in M.C.O.P.No.2084 of 2008, on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore.

For Appellant : Mr. S.V. Vasantha Kumar
For R1 to R5 : No Appearance
For R6 : Exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Transport Corporation challenging the quantum of compensation awarded by the Claims Tribunal.

2.According to the claimants/respondents 1 to 5, on 22.06.2008 about 09:00 a.m., one Muthukrishnan (deceased) was travelling as a passenger in the appellant Transport Corporation bus bearing Registration No.TN01/N.6653. The bus was proceeding from Chennai to Trichy. When the bus reached near G.S.T. Road, due to the rash and negligent driving of the driver of the bus, it dashed against the lorry bearing Registration No. TN-05-V-6662 belonging to the sixth respondent and insured with the seventh respondent Insurance

Company, which was coming from the opposite direction, as a result of which, the deceased sustained fatal injuries and died. The legal representatives of the deceased filed a claim petition before the Tribunal claiming a sum of Rs.15,00,000/- as compensation. As against the said claim, the Tribunal has awarded a sum of Rs.4,83,000/- with interest at the rate of 6% per annum from the date of petition as total compensation. The Tribunal has fixed the negligence on the part of both the drivers equally and accordingly fastened the liability on the appellant Transport Corporation and the seventh respondent Insurance Company, equally.

3.Challenging the 50% liability, the appellant has come up with the present appeal.

4.The learned counsel for the appellant has submitted that the Tribunal has erred in fastening 50% liability on the appellant. He further submitted that the compensation awarded by the Tribunal is excessive.

5.Despite the service of notice, there is no representation for the respondents 1 to 5 / claimants today.

6.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

7.In the claim petition, the claimants have claimed that the deceased was earning a sum of Rs.7,500/- per month as Mason and Maistry. The Tribunal, based upon the facts, materials, evidence and also the dictum laid down in the decisions of the Apex Court, has calculated the loss of income at Rs.4,68,000/-, by taking the annual income of the deceased at Rs.48,000/-, deducting 1/4th of the amount towards personal expenses and adopting 13 multiplier. The Tribunal has also awarded Rs.2,500/- towards transport / ambulance charges, Rs.2,500/- towards funeral expenses and Rs.10,000/- towards loss of love and affection. This Court is of the opinion that the compensation awarded by the Tribunal is reasonable, weight of evidence and based on settled principles and therefore, there is no ground to interfere with the same.

8.In respect of liability, the Tribunal considering the materials and evidence placed before it, found that there was head-on collision between the bus belonging to the appellant Transport Corporation and the lorry and accordingly, fixed the negligence on both the drivers, thereby fastening 50% liability on the appellant Transport Corporation and the seventh respondent Insurance Company / insurer of the lorry. This Court is not inclined to interfere with the said factual finding arrived at by the Tribunal.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Transport Corporation

is directed to deposit their share of 50% compensation with interest and costs, as ordered by the Tribunal, less the amount if any already deposited, within a period of four weeks, from the date of receipt of a copy of this judgment. The minor respondents 2 and 3 would have attained majority by now. Hence, on such deposit being made, the respondents 1, 2, 3 and 5 are permitted to withdraw their respective shares, as apportioned by the Tribunal, on making proper application before the Tribunal. With regard to the share of the minor fourth respondent, the same shall be deposited in a fixed deposit in any of the Nationalised Banks, till he attains majority. The elder brother of the minor, the first respondent herein, is permitted to withdraw the interest accrued in the bank deposit, once in three months directly from the bank, which shall be used for the benefit and the welfare of the minor.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

srk/smn
To

1. The Motor Accident Claims Tribunal,
Principal District Judge,
Cuddalore.
2. The Section Officer, V.R.Section,
Madras High Court, Chennai 104.

C.M.A.No.2981 of 2012

NR CO
A.SK(24/07/2020)

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