

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 13.03.2019

Judgment Pronounced on : 19.06.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.681 of 2011

- 1.Kadirvel (died)
- 2.Panneerselvi
- 3.Arivazhagan
- 4.Geetha
- 5.Sathya
- 6.Minor Sathish

rep. by guardian Mother Panneerselvi (R1)... Appellants 1 to 6/
Claimants 1 to 6

Versus

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

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 14.05.2004 made in MCOP.No.1102 of 2003 on the file of the Motor Accident Claims Tribunal (Additional District Court), Chidambaram for enhancement of Award amount.

For Appellants : Mr.A.Murugan

For Respondent : Mr.S.Sairaman

JUDGMENT

The claimants are the appellants herein, who preferred this appeal for enhancement of compensation.

2.The factum of the death and the rash and negligence on the part of the driver of the Transport Corporation Bus, are not in dispute and hence, in this regard the findings on those aspects by the Tribunal stand confirmed. Hence, this Court does not want to repeat the facts once again.

3.The learned counsel appearing for the appellants/claimants submitted that the deceased/Kathirvel sustained grievous injuries in the accident took place on 21.04.2002. Due to that injuries, he was admitted in the hospital for some time and subsequently, on 08.04.2003, he died due to the accidental injuries. The Tribunal has failed to

consider his hospitalization and erroneously fixed the compensation of Rs.20,000/-, which is too meagre. Therefore, the claimants have filed this present appeal before this Court, seeking enhancement of compensation.

4.The learned counsel appearing for the respondent/Transport Corporation has denied all the averments made in the claim petition and other details furnished in the claim petition with regard to the age, avocation and income of the deceased/Kathirvel and prayed for dismissal of the claim petition.

5.Before the Tribunal, the wife of the deceased/Kathirvel was examined as PW.1 and one witness/Deviasigamani was examined as PW.2 and documents Ex.P1 to 15 were marked. On the respondent's side, neither oral nor documentary evidence was adduced.

6.Based upon the evidence of PW.1 and Ex.P1 to 15, the Tribunal has rightly come to the conclusion about the happening of the accident on 21.04.2002. It appears that initially, the injured/deceased was given treatment in the Medical College Hospital at Chidambaram. Subsequently, he was admitted for treatment at Government Hospital in Cuddalore, on the same day, he was shifted for further treatment at Government Hospital in Chennai, where he took treatment as an in-patient from 23.04.2002 to 29.04.2002 and the injury was opined grievous in nature, based upon the Wound Certificate/Ex.P3 produced before the Criminal Court by the Inspector of Police and also the Discharge summary/Ex.P4 issued by the Government Hospital, Chennai.

7.The learned counsel appearing for the appellants would content that due to the accidental injuries, the deceased-Kathirvel died on 08.04.2003. It remains to be stated that before the Tribunal, in support of their case, the claimants have filed the case sheet of the deceased under Ex.P15, wherein it is categorically stated that the deceased sustained grievous injuries on the accident happened on 21.04.2002. Immediately, he was admitted to the Hospital and took treatments in two different places. After a period of one year, from the date of accident, he was admitted to one of the private hospital for the complaint of Pulmonary Tuberculosis disease on 05.04.2003, which was seen under Ex.P12/OP chit and further, he contended that due to the accidental injuries, he has suffered the above said disease and it causes the death to the deceased/Kathirvel. But, the Trial Court has rejected the contention that Kathirvel has died due to the accidental injuries and decided that the death was happened only due to the disease of Pulmonary Tuberculosis and fixed the compensation of Rs.20,000/- to the legal heirs of the deceased.

8.On the point of quantum, I have heard both sides and perused the materials available on records.

9. There is no iota of evidence to show that on the deceased died due to the injuries sustained in the said accident took place on 21.04.2002. It appears that after the period of one year, he was admitted again on 05.04.2003 before the O.P. Private Hospital for the complaint of Pulmonary Tuberculosis, which is seen under Ex.P12/OP chit. In connection to that treatment, Ex.P13/X-ray and Ex.P14/CT Scan and the case sheet/Ex.P15 were marked. Subsequent to the treatment, he died on 08.04.2003.

10. After perusing the evidence of Ex.P15, it is to be stated that he was given treatment for Pulmonary Tuberculosis disease, which is not connected with any of the injuries sustained in the said accident. Hence, the Tribunal has rightly held that cause of the death of the deceased/Kathirvel is not due to the injuries sustained in the accident and rejected the plea raised by the claimants and treated the case as that of injuries and awarded a sum of Rs.20,000/- as compensation to the injuries sustained by the deceased/Kathirvel. Hence, the reasons assigned by the Tribunal, in rejecting the claim cannot be brushed aside.

11. In view of the satisfaction in relying the evidence of Ex.P15, the compensation of Rs.20,000/- awarded by the Tribunal is just and fair. Considering the nature of injury, this Court is inclined to award a sum of Rs.60,000/- as a consolidated compensation to the claimants.

12. In the result, the Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount awarded by the Tribunal from Rs.20,000/- to Rs.60,000/-.

(i) The respondent/Transport Corporation is directed to deposit the enhanced amount as determined in this appeal together with interest at the rate of 7.5% per annum from the date of petition, till the date of deposit, after adjusting the amount, if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment.

(iii) On such deposit being made, the claimants are permitted to withdraw the same with accrued interest, less the amount if any, already withdrawn.

(iv) The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation.

(v) There shall be no order as to costs.

Sd/--

Assistant Registrar

//True Copy//

Sub Assistant Registrar

klr

To

The Motor Accident Claims Tribunal
(Additional District Court), Chidambaram.

+lcc to Mr.A.Murugan, Advocate SR.50455

+lcc to Mr.S.Sairaman, Advocate SR.50404

Pre-Delivery Judgment in
C.M.A.No.681 of 2011

VD(CO)
CB(15/06/2020)



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