

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.08.2019
CORAM:
THE HON'BLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.3522 of 2012 and
M.P.No.1 of 2012

The Managing Director
Tamil Nadu State Transport
Corporation (Villupuram) Ltd
No.3/137, Salamedu,
Valudhareddy
Villupuram - 605 602

Appellant / Respondent

Vs

1. Shanmugam

2. Gayathri

Respondents / Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 30.01.2012 passed in M.C.O.P.No.732 of 2009 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri.

For Appellant : Mr.S.Sairraman

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant / Transport Corporation, as against the award of the Tribunal passed in MCOP No.732 of 2009.

2. It was the case of the Claimants before the Tribunal that on 29.11.2008, when the 2nd respondent along with her daughter Chethashree and other family members were proceeding in a Maruti Omni Van bearing Reg.No. KA 03 ME 6711 from Bangalore to Thiruvannmalai Temple, a TNSTC bus bearing Reg.No.TN 32 N 3038 belonging to the appellant herein came in a rash and negligent manner dashed against the said Van, due to which, the daughter of the 2nd respondent herein sustained fatal injuries on her vital organs. In spite of treatment given to her, she died on 02.12.2008. Stating that the accident had happened, due to the rash and negligent driving of the driver of the TNSTC bus, the

parents of the deceased Chethashree filed a claim petition before the Tribunal. The Tribunal based on the materials available on record, has awarded a sum of Rs.3,22,500/- as compensation.

3. Despite ordering notice to the respondents, they are not served till date and hence the appeal itself is taken up for consideration on merits.

4. Heard the learned counsel for the appellant Transport Corporation.

5. The learned counsel for the appellant has submitted that the Tribunal has erroneously fixed the negligence on the appellant Transport Corporation, by relying upon Ex.P.1 First Information Report, which was marked through the claimant without examining the author of the documents. The Tribunal has failed to consider that no police officer was examined to prove the negligence on the part of the bus driver. He further submitted that the compensation awarded by the Tribunal is without any basis and material evidence on record.

6. An analysis of the award of the Tribunal would go to show that before the Tribunal, Pws 1 to 7 were examined and Exs.P.1 to 29 were marked. That apart, on the side of the appellant Transport Corporation, RW 1 was examined. From the award of the Tribunal, it is crystal clear that when Pws 1 to 5 were travelling along with the deceased Chethashree in Martui Omni Van, the accident had happened and hence they are eyewitnesses to the accident. The said evidence also corroborates the version of Ex.P.1 First Information Report. Further, based on the documents such as Ex.P.12 Rough Sketch and Ex.P.13 Motor Vehicle Inspector's Report and Ex.P.14, Copy of Charge Sheet, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the Corporation bus. It is worthwhile to note that the appellant has not even denied the factum of accident before the Tribunal and not even taken any action with regard to the establishment of the manner of accident. Hence, this Court finds no reasons to differ from the view taken by the Tribunal, since the Tribunal has rendered its findings on negligence aspect, based on evidence and materials available on record.

7. As far as the quantum of compensation is concerned, the Tribunal has taken into consideration the evidence of Pws 1 to 5 and Ex.P.16, Copy of Postmortem Certificate of deceased Chethashree. From the said evidence and documents, it reveals that the deceased Chethashree was aged 6 at the time of accident. Further, the Tribunal has relied upon the Judgment reported in R.K.Malik and another Vs.Kiran Paul and others reported in 2009 (1) (TNMAC 593 (SC) and awarded a sum of Rs.1,50,000/- towards pecuniary loss and Rs.75,000/- towards non pecuniary loss and Rs.75,000/- towards loss of future prospects. Further, the Tribunal has taken Ex.P.18 series Medical bills issued by Manipal Hospital, Bangalore for a sum of Rs.22,500/-. Thus, the Tribunal has awarded a sum of Rs.3,22,500/-, as total compensation, which in the opinion of this Court is nothing but just.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. The appellant/Transport Corporation shall deposit the entire compensation amount, 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 Tribunal is directed to transfer the deposited amount to the Savings Bank Account of the claimant forthwith, through RTGS.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

srk / vrn

To

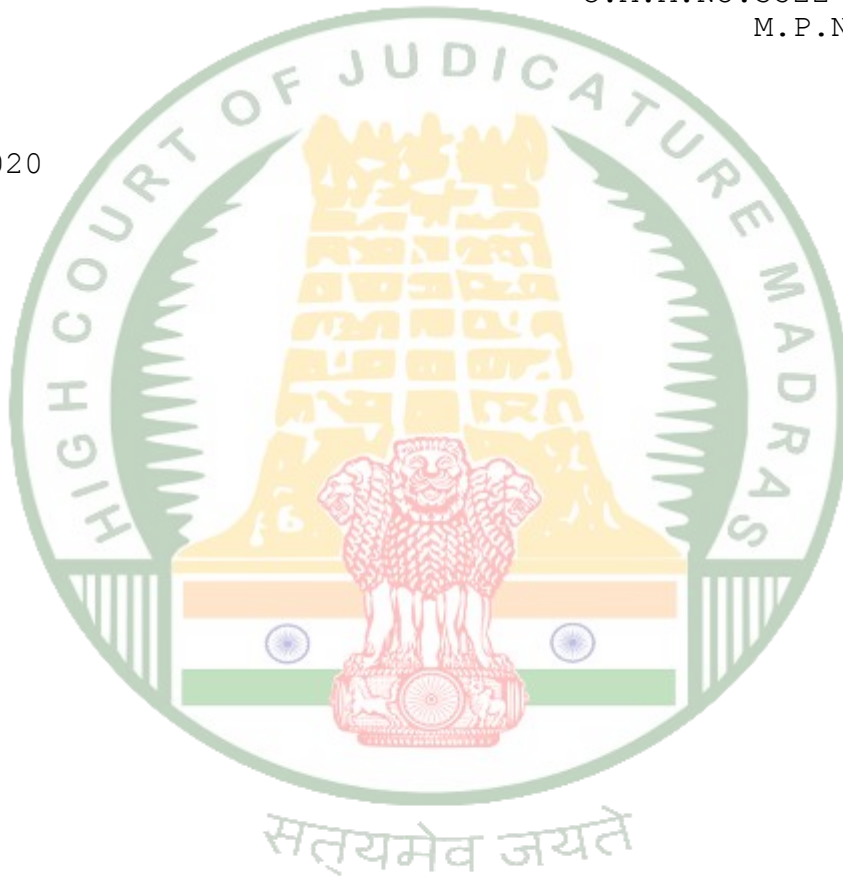
1. The Additional District Judge,
Motor Accident Claims Tribunal/Fast Track Court No.II
Tindivanam.

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

+1 cc to Mr.S.Sairaman Advocate sr70100

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