

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.630 of 2012

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division I,
37, Mettupalayam Road, Coimbatore.
... Appellant/2nd Respondent

Vs.

1.S.Kaleeswari

2.S.Lenin

3.S.Bharathi

4.S.Radha

5.S.Kanagalakshmi ... Respondents 1 to 5/Petitioners

6.S.Pachiannan

(R6 Driver Given up) ...6th Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the order and Decree dated 06.04.2011 made in M.C.O.P.No.1420 of 2008 on the file of the learned Motor Accident Claims Tribunal (II Additional Sub-Court), Coimbatore.

For Appellant : Mr.S.S.Swaminathan

For R1 to R5 : No appearance

For R6 : Given up

J U D G M E N T

The 2nd respondent before the Tribunal, is the appellant herein. This Civil Miscellaneous Appeal has been filed against the order and decree dated 06.04.2011 made in M.C.O.P.No.1420 of 2008 on the file of the Motor Accident Claims Tribunal (II Additional Sub-Court), Coimbatore.

2. The averments made in the claim petition in brief are as follows:-

On 23.02.2008 at about 04.45 hours, the deceased V.Sunailigam was standing in front of City Cake shop, Mettupalayam Road, Coimbatore. By that time, a vehicle bearing registration No.TN 38 N 0913 driven by the TNSTC Bus driver in the regular course of employment under the appellant/Transport Corporation, was coming from South to North so rashly and negligently and without adhering the traffic regulations, dashed against the deceased and caused the accident. Due to the accident, the deceased had sustained grievous injuries all over the body and died on the spot. The accident has taken place due to the rash and negligence of the driver of the appellant/Transport Corporation and the sixth respondent herein is the driver and the appellant/Transport Corporation is the owner and the insurer of the offending vehicle.

3. On consideration of both oral and documentary evidence adduced before the Tribunal, the Trial Court has relied upon the evidence of P.W.2 who is the occurrence witness and also Exhibit P1-F.I.R, Exhibit P2-Rough sketch, Exhibit P3-charge sheet, Exhibit P4-Motor Vehicle Inspector's Report, Exhibit P5-Postmortem certificate. On the side of the respondent, no one was examined and no documents were marked.

4. Taking into consideration the evidence of P.W.2 coupled with the above documentary evidence and also taking note of the fact that F.I.R has been registered against the driver of the second respondent Government Bus and he was also charge sheeted for the offence under Section 304-A I.P.C, as could be seen from Exhibit P3 and in the absence of any contra evidence, the Tribunal has rightly come to the conclusion that the accident has taken place due to the rash and negligent driving of the vehicle by its driver and the same is hereby confirmed.

5. On the point of quantum, after going through the evidence, it appears that in the absence of any formal proof, notional income of Rs.4,500/- has been fixed as the income and the deceased was a coolie and at the time of the accident, the age of the deceased was fixed at '56' based upon Exhibit P5-Postmortem certificate and accordingly, proper multiplier has been applied and compensation has been granted in the conventional heads, which this Court is of the considered view that a sum of Rs.3,02,500/- was awarded as compensation and the same is hereby confirmed and the quantum awarded by the Tribunal cannot be termed as excessive or exorbitant.

6. In such view of this matter, this Civil Miscellaneous Appeal is dismissed. The appellant/Transport Corporation has submitted that the entire amount has already been deposited. The claimants are permitted to withdrawal of the compensation amount. No costs.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

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To

1. The Motor Accident Claims Tribunal
(II Additional Sub-Court), Coimbatore.
2. The Section Officer,
V.R. Section, High Court, Chennai-104.

+1 CC to M/s. Ra. Srividya, Advocate sr 24202.
+1 CC to Mr. S. S. Swaminathan, Advocate sr 24263.

C.M.A.No.630 of 2012

RSI (CO)
SP (29/07/2019)

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