

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.513 of 2019
and
C.M.P.No.1771 of 2019

The Managing Director,
Tamilnadu State Transport Corporation,
Kancheepuram. .. Appellant

Vs.

1.L.Jayanthamma
2.L.Ramagopal Reddy
3.V.M.Elumalai
4.The Chairman and Managing Director,
United India Insurance Co.Ltd.,
No.24, Whites Road,
Chennai – 600 014. .. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 31.03.2004 made in M.C.O.P.No.129 of 2002 on the file of the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court No.3, Poonamallee.

For Appellant : Mr.P.G.Padmanabhan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 31.03.2004 made in M.C.O.P.No.129 of 2002 on the file of the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court No.3, Poonamallee.

2.The appellant is the third respondent in M.C.O.P.No.129 of 2002 on the file of the Motor Accident Claims Tribunal, Additional District Court, Fast Track Court No.3, Poonamallee. The respondents 1 and 2 filed the said claim petition, claiming a sum of Rs.2,00,000/- as compensation for the death of their son viz.,SureshKumar, who died in the accident that took place on 02.11.1999.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by both the driver of the lorry belonging to the third respondent as well as the driver of the bus belonging to the appellant-Transport Corporation and fixed 75% negligence on the part of the driver of the lorry and 25% negligence on the part of the bus belonging to the appellant-Transport Corporation and directed the respondents 3 and 4 to pay 75% of the award amount i.e.,Rs.9,09,600/- and appellant to

pay 25% of the award amount i.e.,Rs.3,03,200/- as compensation to the respondents 1 to 2. Challenging the said award dated 31.03.2004 made in M.C.O.P.No.129 of 2002 directing the appellant to pay 25% of compensation to the respondents 1 and 2, the appellant-Transport Corporation has come out with the present appeal.

4.The learned counsel appearing for the appellant-Transport Corporation contended that the Tribunal erred in fixing 25% negligence on the part of the driver of the bus belonging to the appellant-Transport Corporation and 25% liability on the appellant-Transport Corporation. P.W.2, who is an eye-witness deposed that the accident occurred only due to rash and negligent driving by driver of the lorry. The Tribunal ought to have fixed entire negligence on the part of the driver of the lorry and total compensation awarded by the Tribunal is excessive and prayed for setting aside the award of the Tribunal.

5.Heard the learned counsel appearing for the appellant and perused the materials available on record.

6.From the award of the Tribunal it is seen that P.W.2/eye-witness deposed that accident occurred due to rash and negligent driving by drivers of both vehicles. The Tribunal considered the evidence of

P.W.2/eye-witness and Ex.P1/F.I.R and held that the accident occurred due to rash and negligent driving by both the driver of the lorry belonging to the third respondent as well as the driver of the bus belonging to the appellant-Transport Corporation. The deceased was aged 23 years at the time of accident and was a first year M.B.A. student at Sankara School of Management, Kancheepuram. The Tribunal considered the evidence of P.W.4, who studied in the same college, where the deceased studied and fixed a sum of Rs.6,000/- as notional income per month, deducted 1/3rd towards his personal expenses, applied multiplier of '13' and awarded a sum of Rs.6,24,000/- towards loss of income. The Tribunal considered entire materials on record and awarded a total sum of Rs.12,12,820/- (rounded off to Rs.12,12,800/-) as compensation to the respondents 1 to 2/claimants. The compensation awarded by the Tribunal is just compensation and not excessive. There is no error in the award passed by the Tribunal warranting interference by this Court.

7.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.12,12,800/- awarded by the Tribunal as compensation to the respondents 1 and 2, along with interest and costs is confirmed. The appellant-Transport Corporation is directed to deposit 25% of the award amount i.e.,Rs.3,03,200/- along with interest and costs, less the

amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.129 of 2002. On such deposit, the respondents 1 and 2 are permitted to withdraw their respective share of the award amount, as per the ratio of apportionment fixed by the Tribunal, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

25.01.2019

krk

Index : Yes / No

Internet : Yes/ No

To

1.The Additional District Judge,
Motor Accident Claims Tribunal,
Fast Track Court No.3,
Poonamallee.

2.The Section Officer,
VR Section,
High Court,
Madras.

WEB COPY

V.M.VELUMANI, J.

krk



C.M.A.No.513 of 2019
and
C.M.P.No.1771 of 2019

WEB COPY

25.01.2019