

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

C.M.A.No.1494 of 2003
and C.M.P.No.9846 of 2003

The Managing Director,
Tamil Nadu State Transport Corporation
(Salem Div.II) Ltd., Dharmapuri ... Appellant /Respondent
(Cause title accepted vide order dated
04.07.2003 made in CMP No.8450/2003)

...vs...

1. V.E.Munusamy
2. Sivakami Ammal ... Respondents /Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 26.09.2001 made in MCOP No.120 of 1997 on the file of the Motor Accident Claims Tribunal, Additional Special Judge, Dharmapuri at Krishnagiri.

For Appellant : Mr. S.N.Vasanthakumar

For Respondents: V.Raghavachari.

J U D G M E N T

As against the claim made for a sum of Rs.3,00,000/-, there is an award for a sum of Rs.1,40,500/-. Challenging the quantum of compensation awarded as disproportionate, the Transport Corporation has filed this Appeal.

2. The legal representatives of the deceased V.E.Singaraj in the capacity as parents (V.E.Munusami, aged 56 and Sivagami Ammal, aged 49) of the deceased have filed the claim petition. The Tribunal has quantified the compensation with the following breakup details:-

Loss of dependency	-	Rs.1,36,000.00
Funeral expenses	-	Rs. 2,000.00
Damage to cloths	-	Rs. 2,500.00

Rs.1,40,500.00

3. The accident is stated to have taken place, while the deceased was travelling in the bus belonging to the appellant Transport Corporation, while he was travelling as passenger.

3.1. It is the case of the claimants / respondents that since the bus was overloaded, the deceased and others were standing in the footboard and due to the rash and negligent driving of the driver of the appellant's bus, the deceased fell down from the bus and succumbed to the injuries.

3.2. But the case of the appellant / Transport Corporation was that the deceased was standing at the footboard of the bus, and only because of his negligence, he fell down and invited the accident.

4. The Tribunal, after consideration of the materials, came to the conclusion that it is only the bus driver, who was negligent in causing the accident and thus, the appellant is liable to compensate the claimants.

5. This finding does not require any interference as it is based on oral and documentary evidence adduced.

6. So far as the quantum of compensation is concerned, fixing the annual income at Rs.12,000/-, deducting 1/3rd towards the personal expenses, adopting the multiplier of '17', the loss of dependency has been calculated at Rs.1,36,000/-. Awarding a sum of Rs.2,000/- towards funeral expenses and awarding a sum of Rs.2,500/- towards damage to clothes, the total compensation has been quantified at Rs.1,40,500/-.

6.1. This award is under challenge by the Transport Corporation on the ground that the award is excessive.

7. It is relevant to point out that the future prospective increase in income and loss of love and affection to the parents have not been considered by the Claims Tribunal. Further, for all the thirty days, the income has not been calculated by the Tribunal. If on those counts the amounts are awarded, then the compensation amount arrived at by the Tribunal would be less and not more.

8. Added to the above, the accident, in this case, had taken place in the year 1994 and the appeal is heard on merits in the year 2019. Thus, far, there is no appeal by the claimants. Under the given set of circumstances, it may not be appropriate to enhance or reduce the quantum of compensation.

9. Therefore, the Appeal has no merits and thus, the Appeal is dismissed. No costs. Consequently, the connected CMP is closed.

10. The Transport Corporation / appellant herein shall deposit the entire compensation amount, as awarded by the Claims Tribunal, along with interests and costs, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. The ratio of apportionment shall be as ordered by the Claims Tribunal. On such deposit being made, the Claims Tribunal shall pay the compensation to the RTGS Accounts of the claimants.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

srk

To

1. Motor Accident Claims Tribunal,
Additional Special Judge,
Dharmapuri at Krishnagiri.
2. The Section Officer,
V.R.Section, Madras High Court,
Chennai 104.

+1cc to M/s.S.V.Vasanthakumar, Advocate Sr.46118

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srg 06/11/2019