

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.3479 to 3481 of 2008

&

M.P.Nos. 1, 1 and 1 of 2008

The Managing Director,
Karnataka State Transport Corporation,
Central Officer, K.H.Road,
Santhi Nagar, Bangalore - 27. ... Appellant in all CMAs/
Respondents

Vs.

1. Ravi
2. Minor Raji
3. Minor Rathika
(Minors 2 & 3 rep. by father,
next Friend 1st respondent)
... Respondents in CMA.No.3479 of 2008
Thanikachalam ... Respondent in CMA.No.3480 of 2008/Petitioner
Ayyappan ... Respondent in CMA.No.3481 of 2008

Prayer: These Civil Miscellaneous Appeals are filed under
Section 173 of Motor Vehicles Act, 1988, against the Judgment
and Decree dated 31.10.2006 in M.C.O.P.Nos.416, 640, 669 of
2003 on the file of the Motor Accidents Claims Tribunal,
(District Court), Thiruvannamalai.

For Appellant : Mr.S.V.Vasantha Kumar in all CMAs

For Respondents: Mr.B.Jawahar in all CMAs

COMMON JUDGMENT

These Civil Miscellaneous Appeals arise out of the
common Judgment dated 31.10.2006 passed by the Motor
Accidents Claims Tribunal, (District Court), Thiruvannamalai
(for brevity, "the Tribunal"), in M.C.O.P.Nos.416, 640 and
669 of 2003. Hence, they were heard together and are being
decided by this common judgment.

2.The case in brief is as follows:

On the fateful day, i.e., on 24.03.2003 at about 3.00a.m., one Selvi and respondent(s) in CMA.Nos.3480 and 3481 of 2008 were going in a bullock cart towards Tirukoilur along with agricultural products. At that time, the bus bearing Registration No.KA01 F 6704 belonging to the appellant Transport Corporation came in a rash and negligent manner and dashed against the bullock cart. As a result of the same, the said Selvi died on the spot and the two others sustained grievous injuries. The claimants filed separate claim petitions claiming compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.2,84,000/- to the respondents in CMA.No.3479 of 2008, Rs.1,51,000/- to the respondent in CMA.No.3480 of 2008 and Rs.1,00,000/- to the respondent in CMA.No.3481 of 2008, with interest at the rate of 7.5% per annum from the date of the respective claim petitions.

3.Challenging the same, the appellant Transport Company has filed the present Civil Miscellaneous Appeals.

4.The learned counsel for the appellant Transport Corporation has submitted that the Tribunal has erred in holding that the appellant's bus driver was rash and negligent in driving and was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.On the other hand, the learned counsel for the respondent(s)/claimants submitted that the Tribunal after analyzing the oral and documentary evidence adduced by the parties, has rendered its findings on negligence and awarded the just compensation and hence, the same do not call for any interference by this Court.

6.Heard the learned Counsel for the either side and perused the materials available on record carefully and meticulously.

7.There is no dispute as regards the findings of the Tribunal on negligence and liability of the appellant Transport Corporation and hence, the same are confirmed as such.

8.As regards the quantum of compensation awarded by the Tribunal to the respondents/claimants in CMA.No.3479 of 2008 (MCOP.No.416 of 2003), the husband of the deceased was examined as P.W.1 before the Tribunal, who deposed that the deceased was aged about 21 years and was earning around Rs.100/- to Rs.300/- per day as a Coolie. However, no proof

was produced to substantiate the same. Hence, the Tribunal has taken the monthly income of the deceased at Rs.2,000/- and after deducting 1/3rd towards personal expenses, arrived at the annual contribution to the family at Rs.16,000/- and adopted the multiplier of 17 and ultimately quantified the compensation under the head "loss of income" at Rs.2,72,000/-. The Tribunal has correctly analyzed the income of the deceased, adopted the correct multiplier and awarded Rs.2,72,000/- towards the contribution of the deceased to the family and hence, the same is hereby confirmed. That apart, the Tribunal has awarded Rs.2,000/- towards funeral expenses, Rs.10,000/- towards loss of love and affection, which are just and reasonable and hence, the same need not be interfered with by this Court.

9. In respect of the compensation awarded by the Tribunal to the respondent/claimant in CMA.No.3480 of 2008 (MCOP.No.640 of 2003), P.W.2/claimant deposed before the Tribunal that he was aged 65 years and was earning around Rs.250 to 300/- per day as agriculturist; and he initially took treatment at Nagariputhoor at six months and thereafter, at Cuddalore, Krishna Hospital; and bullock cart was damaged and bulls died. P.W.5/Doctor, who examined the claimant, deposed in his evidence that the respondent/claimant sustained fractures and injuries and issued permanent disability to the tune of 40%. The Tribunal, after taking note of the materials and evidence available on record, has awarded Rs.40,000/- towards permanent disability, Rs.14,000/- towards loss of income during the treatment period, Rs.20,000/- towards medical expenses, Rs.40,000/- towards grievous injuries, Rs.12,000/- towards simple injuries, Rs.5,000/- towards pain and suffering, Rs.10,000/- towards damage to bullock cart and Rs.10,000/- towards loss of bulls, in totalling Rs.1,51,000/- as compensation to the respondent/claimant, which in the opinion of this Court, are fair, just and reasonable and the same cannot be said to be excessive and exorbitant at any stretch of imagination, considering the nature of the injuries sustained by the respondent/claimant and in the given facts and circumstances of the case and hence, the same need not be interfered.

10. As regards the quantum of compensation awarded by the Tribunal in MCOP.No.3481 of 2008, the respondent/claimant himself examined as P.W.3, who deposed that he was aged 25 years and was earning a sum of Rs.100/- per day as coolie; P.W.5/Doctor, who examined the claimant, deposed in his evidence that the respondent/claimant sustained injuries on right side head, right eye brow, left fingers, right side face, left hand and all over the body. After assessing the respondent/claimant, the doctor issued Ex.P12- Permanent

disability certificate to the tune of 35%. The Tribunal, after considering the materials and evidence available on record, has awarded Rs.30,000/- towards permanent disability, Rs.14,000/- towards loss of income during the treatment period, Rs.40,000/- towards grievous injuries, Rs.8,000/- towards simple injuries, Rs.5000/- towards pain and suffering, Rs.3,000/- towards attendant charges, extra nourishment and transport charges, in totalling Rs.1,00,000/- as compensation to the respondent/claimant, which are just and very reasonable and hence, the same are hereby confirmed.

11. In the result, the Civil Miscellaneous Appeals stand dismissed. No costs. Consequently, connected Miscellaneous petitions are closed. The appellant Transport Corporation is directed to deposit the compensation amounts along with interest and costs, as awarded by the 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. The minor respondents in CMA.No.3479 of 2008 would have attained majority as of now. Hence, on such deposit being made, all the respondents/claimants are permitted to withdraw their respective shares as per the ratio of apportionment made by the Tribunal, on making proper application.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
District Court,
Thiruvannamalai.

2. The Section Officer,
VR Section,
High Court,
Madras-104.

C.M.A.Nos.3479 to 3481 of 2008
and

M.P.Nos. 1, 1 and 1 of 2008

SVI (CO)
CB(26/08/2020)