

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1282 of 2017
and C.M.P.No.6620 of 2017

The Managing Director
Tamil Nadu State Transport Corporation
Coimbatore Division,
Chennimalai Road, Erode. ... Appellant/Respondent

Vs.

1.Jayalakshmi
2.Jayarathinam ... Respondents/Petitioners

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 15.04.2015 made in MCOP No.598 of 2013 on the file of the Motor Accidents Claims Tribunal and I Additional District Judge, Tirupur.

For Appellant : Ms.R.T.Sundari
For Respondents : Mr.Ma.P.Thangavel

JUDGMENT

This appeal is preferred by the appellant Transport Corporation against the award of a sum of Rs.6,89,420/- towards compensation to the respondents, due to the death of the husband of the first respondent in a motor vehicle accident.

2.The case in brief, is as follows:

On 17.03.2013 at about 20.30 hours, when the deceased Krishnasamy was standing in the New Bus Stand Bridge, Avinashi, the bus bearing Reg.No.TN-33-N-2515 belonging to the appellant Transport Corporation, driven by its driver in a rash and negligent manner, came from South to North direction and dashed against the deceased. Due to the said impact, the deceased sustained grievous injuries. He was taken to the Government Hospital, Tirupur and Coimbatore Medical College and Hospital, Coimbatore for treatment, and he succumbed to the injuries. The respondents herein are the wife and son of the deceased. They filed a claim petition before the Tribunal, claiming a sum of Rs.10,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.6,89,420/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant Transport Corporation has come up with the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the Tribunal has erred in giving a finding that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation. She also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.The learned counsel for the respondents / claimants has submitted that Tribunal has correctly considered the materials and evidence available on record and has correctly awarded the compensation, which is just, fair and reasonable and hence the judgment of the Tribunal does not require any interference in the hands of this Court.

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

7.Ex.P1 is the First Information Report filed on the side of the claimants, in which it is stated that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation. The Manager of the Transport Corporation was examined as R.W.1. He deposed before the Tribunal that on enquiry he came to know that when the bus was coming from Salem and reaching near Avinashi, one person crossed the road from South to North direction and upon noticing a bike, he retracted and came back with tension without noticing the said bus and dashed against the bus and hence the driver of the appellant Transport Corporation was not responsible for the accident. Since he was not the eye-witness to the occurrence and further the driver of the bus was not examined on the side of the Transport Corporation, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant Transport Corporation. This Court is not inclined to interfere with the said finding rendered by the Tribunal.

8.In respect of the quantum of compensation, the Tribunal has awarded a sum of Rs.5,79,420/- towards loss of income. The said sum has been arrived at by taking the monthly income of the deceased at Rs.8,050/- (Rs.7,000/- earned by way of Steam Boiler Work and an additional future income of Rs.1,050/- taking note of the age of the deceased), deducting 1/3rd of the amount towards personal expenses of the deceased and adopting the

multiplier of 9. The Tribunal has also awarded a sum of Rs.50,000/- towards loss of consortium to the wife of the deceased, a sum of Rs.25,000/- each towards loss of love and affection to the wife and son of the deceased and a sum of Rs.10,000/- towards funeral expenses. The Tribunal has rightly fixed the monthly income of the deceased by considering the materials and evidence adduced on record, adopted the correct multiplier and awarded Rs.5,79,420/- towards loss of income. The amounts awarded by the Tribunal towards other heads are also very reasonable. In view of the same, the compensation awarded by the Tribunal at Rs.6,89,420/- with interest at the rate of 7.5% per annum from the date of petition, is confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Transport Corporation is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents / claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Assistant Registrar(Arbitration)

/True Copy/

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal
and I Additional District Judge, Tirupur.

Copy to : The Section Officer, VR Section,
Madras High Court.

+1cc to Mr.R.T.Sundari, Advocate, SR.No.78358

+1cc to Mr.Ma.P.Thangavel, Advocate SR.No.79048

AKM/13.02.2020 /3p-5c/

C.M.A.No.1282 of 2017
and C.M.P.No.6620 of 2017