



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

JUDGMENT RESERVED : 08.04.2019
JUDGMENT PRONOUNCED : 29.04.2019

WEB COPY

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A(MD) No.256 of 2017
and
C.M.P(MD) No.2964 of 2017
and
C.M.P. (MD) No.12044 of 2018

The Managing Director,
Tamil Nadu State Transport Corporation,
12, Ramakrishna Road,
Salem.

: Appellant/Respondent

Vs.

1. Jeyarani
2. Minor Archana
3. Minor Kavishnubalan
4. Ramachandran
5. Soundaram
(minors represented through
their mother and guardian-
first respondent)

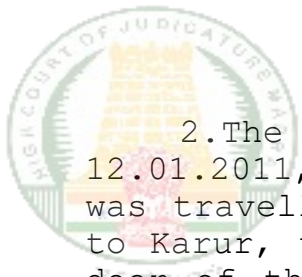
: Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree passed in M.C.O.P.No.56 of 2012 dated 28.04.2012 on the file of the Motor Accidental Claims Tribunal/Additional District Judge, Ramanathapuram.

For Appellant : Mr.M.Prakash
For R1 to R3 & R5 : Mr.J.M.Hassanul Bazari
For R4 : died

JUDGMENT

This Civil Miscellaneous Appeal has been filed to set aside the judgment and decree passed in M.C.O.P.No.56 of 2012 dated 28.04.2012 by the Motor Accident Claims Tribunal/Additional District Judge,



2.The brief facts in the claim application is that on 12.01.2011, when the deceased Nagarathinam along with his relative was travelling in the bus bearing Reg.No.TN 30 N 0756 from Madurai to Karur, the deceased, who was sitting on the backside seat nearby door of the bus, thrown away through the rear foot board from the bus because of the rash and negligent driving of the driver of the said bus, due to which, the deceased died on the spot. Hence, the claimants have filed a petition seeking compensation of Rs.5,00,000/- before the Tribunal.

3.The respondent/Transport Corporation denied the negligence on the part of the driver of the bus by contending that the deceased was in the drunken state at the time of occurrence and when the bus came near Angu Nagar Railway Gate, the deceased Nagarathinam all of a sudden came to front step and lost his balance and thereby, he fell down from the bus and he himself invited the said accident in the drunken state. The sum claimed by the claimants under various heads was also denied by the appellant as excessive.

4.The Tribunal after analyzing the evidence and on perusing the records, has given a compensation to the claimants for a sum of Rs.9,18,000/- under various heads after detecting 10% of the award amount for the negligence on the part of the deceased. Aggrieved by the said order, the appellant/Transport Corporation has filed the present appeal.

5.Heard the learned counsel on either side and perused the records carefully.

6.The appellant contended that the sum awarded by the Tribunal under the head of love and affection is highly excessive and without filing any documentary evidence, the Tribunal calculated the monthly income of the deceased and awarded compensation. Further, when the claimants claimed a sum of Rs.5,00,000/- as compensation, the Tribunal awarded a sum of Rs.9,18,000/- as compensation, which is highly excessive. Hence, the present appeal.

7.On hearing the learned counsel on either side and on perusing the documents, it is observed that the first respondent is aged about 33 years old, the respondents 2 and 3 are minors, aged about 10 and 6 respectively and the respondents 4 and 5 are the parents of the deceased, who lost their son, aged about 78 and 71 years respectively.

8.The Tribunal has taken the monthly income of the deceased at Rs.6,000/- by considering the occupation of the deceased that was deposed before the Tribunal and the multiplier taken by the Tribunal is disputed by the appellant.

9.Considering the facts and circumstances of the case, considering the age of the respondents 1 to 5, wife, minor children and the parents of the deceased and on perusing the records, this



Court finds that the order passed in M.C.O.P.No.56 of 2012 dated 28.04.2012 by the Motor Accident Claims Tribunal/Additional District Judge, Ramanathapuram, is very much reasonable and the same is hereby confirmed and there is no merit in this Civil Miscellaneous Appeal.

10.This Civil Miscellaneous Appeal is dismissed accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

Motor Accident Claims Tribunal/
Additional District Judge,
Ramanathapuram.

Copy to:

The Section Officer, (2 copies)
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.J.M.HASSANUL BAZARI, Advocate (SR-63858[F] dated 29/04/2019)

+1 CC to Mr.M.PRAKASH, Advocate (SR-64084[F] dated 30/04/2019)

C.M.A(MD) No.256 of 2017
29.04.2019

mm

MK/20.05.2019/3P/6C