

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-07-2020

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.NO.104 OF 2018

AND

C.M.P.NO.1354 OF 2018

The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore) Ltd.,
37, Mettupalayam Road,
Coimbatore Post,
Coimbatore District.

.. Appellant/
2nd Respondent

vs.

1.K.Thiyagarajan
2.T.Tamilarasi

... 1st & 2nd Respondents/Claimants

3.S.Mariadass

... 3rd Respondent/1st Respondent

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 10.06.2015 passed in M.C.O.P. No.589 of 2011 on the file of the learned III Additional District Judge, III Additional District Court-cum-Motor Accidents Claims Tribunal, Dharapuram.

For Appellant : Mr.K.J.Siva Kumar

For Respondents 1 & 2 : Mr.Ma.P.Thangavel

For Respondent-3 : Notice Not Ready

J U D G M E N T

The appellant-Tamil Nadu State Transport Corporation (Coimbatore) Limited has preferred the present Civil Miscellaneous Appeal against the judgment and decree dated 10.06.2015 passed by the learned III Additional District Judge, III Additional District Court-cum-Motor Accidents Claims Tribunal, Dharapuram in M.C.O.P. No.589 of 2011.

2. The learned counsel appearing on behalf of the appellant-Transport Corporation mainly contended that mere registration of FIR against the driver of the appellant-Corporation bus is not sufficient to hold that the driver of the Corporation bus had committed an act of negligence. There is no valid document filed by the claimant to establish the age of the deceased. The Trial Court also failed to consider that the claimant had not filed any acceptable evidence for the purpose of establishing the income of the deceased. Thus, fixing of Rs.7,000/- as monthly income is perverse and unacceptable. Therefore, the Award passed by the Tribunal is to be scrapped.

3. The claim petition was filed stating that the deceased was working in a Baniyan Factory at Tiruppur and at the time of accident he was aged about 29 years. The father of the deceased was the first respondent herein and he claimed that at the time of accident, the deceased person was earning Rs.7,500/- per month. The accident occurred near Katteri at Mettupalayam to Ooty Main Road on 16.05.2010 at about 9.00 A.M. Coonoor Town Police Station registered a case in Crime No.84 of 2010 under Section 304-A of IPC. The deceased was riding a Motorcycle bearing Registration No.TN-38-AZ-3597 at the time of accident. On account of the accident, the deceased sustained grievous injuries all over the body. The injured died on the way to the hospital.

4. The Tribunal considered the issues with reference to the facts.

5. The point of negligence was fixed on the driver of the Transport Corporation bus. The finding of the Tribunal reveals that the driver of the bus was driving the Corporation bus in a rash and negligent manner. Thus, the Tribunal arrived a conclusion that the accident occurred on account of the negligence committed by the driver of the appellant-Transport Corporation bus. Accordingly fixed the liability on the appellant-Transport Corporation.

6. As far as the income of the deceased is concerned, as per the claim petition, the deceased was earning a sum of Rs.7,500/- per month. However, there is no evidence to establish his monthly salary. However, accepting the fact that the deceased was working in a Baniyan Factory at Tiruppur and taking note of the age of the deceased, as he was aged 29 years at the time of accident, the Tribunal fixed the minimum monthly income of Rs.7,000/- and has deducted half of the amount for his personal expenditure and accordingly, applied the multiplier. The multiplier as per Sarla Verma vs. Delhi Transport Corporation [(2009) 6 SCC 121] was adopted and a total sum of Rs.7,54,000/-

was awarded as compensation with interest at the rate of 7.5% per annum.

7. Careful scrutiny of the fact as well as the award passed by the Tribunal, this Court is of the considered opinion that the deceased was aged about 29 years at the time of accident and was working in a Baniyan Factory at Tiruppur. Therefore, the Tribunal has not committed any error in fixing the monthly salary of the deceased at Rs.7,000/- for the purpose of calculating the compensation. This apart, as per the FIR and the deposition, the bus driver committed the act of negligence and therefore, the Tribunal has rightly arrived a conclusion that the liability is to be fixed on the appellant-Transport Corporation.

8. The quantum of compensation awarded by the Motor Accident Claims Tribunal is to be construed as just compensation and there is no other reason whatsoever to interfere with the Award of the Tribunal. Accordingly, the judgment and decree dated 10.06.2015 passed by the learned III Additional District Judge, III Additional District Court-cum-Motor Accidents Claims Tribunal, Dharapuram in MCOP No.589 of 2011 stands confirmed and consequently, the C.M.A.No.104 of 2018 stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

9. The appellant-Transport Corporation is directed to deposit the entire Award amount with accrued interest, if not already deposited, within a period of 12 weeks from the date of receipt of a copy of this judgment and on receipt of such deposit, the claimants are permitted to withdraw the award amount as per the Award of the Tribunal by filing appropriate application and the payments are to be made only through RTGS.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Svn

To

The III Additional District Judge,
III Additional District Court-cum-Motor Accident Claims Tribunal,
Dharapuram.

Copy To

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

CMA.No.104 of 2018

SSI (CO)
CS/26/03/2021