

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED.16.09.2020

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1441 of 2010 &

M.P.No.1 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram. ... Appellant/Respondent

vs.

1.Ramachandran
2.Minor Muralidharan ...Respondents/Petitioners
(R2 rep by R1)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award made in MCOP.No.1794 of 2008 dated 18.08.2009 on the file of the Motor Vehicles Accident Claims Tribunal and Principal District Judge, Salem.

For Appellant : Mr.C.S.K.Sathish
For Respondents : Mr.S.Dhanaraj for R1 & R2

JUDGMENT

[This Appeal has been taken up for hearing through Video Conferencing]

This Appeal has been filed by the Transport Corporation challenging the Award dated 18.08.2009 passed by the Motor Accident Claims Tribunal (Principal District Judge, Salem) in MCOP.No.1794 of 2008.

2. A person by name Mahala died on 06.09.2007 as a result of an accident caused by a bus owned by the Appellant/Transport Corporation. The respondents are the legal heirs and dependents of the deceased. They preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.1794 of 2008 seeking compensation for the death of Mahala.

3. The Motor Accident Claims Tribunal under the impugned award directed the Appellant Transport Corporation to pay the respondents a compensation of Rs.5,31,000/- together with interest and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Loss of dependency	4,86,000/- (4000 - 1/3 = 2700 x 12 x 15)
Loss of love and affection	20,000/-
Loss of consortium	20,000/-
Funeral Expenses	5,000/-
Total	5,31,000/-

4. The Appellant/Transport Corporation aggrieved by the Award has preferred this Appeal. They have raised two contentions in this Appeal which are as follows: (a) they are not responsible for the cause of the accident and hence, they are not liable to compensate the claim and (b) the quantum of compensation awarded by the Tribunal is excessive.

5. Insofar as the first contention raised by the Appellant/Transport Corporation is concerned, the Tribunal has considered the same as the FIR Ex.A1 has been registered only against the driver of the bus owned by the Appellant/Transport Corporation. No contra evidence has been produced by the Appellant/Transport Corporation to disprove the contention of the respondents that only due to the rash and negligent driving by the driver of the bus, the accident had happened. Therefore, this Court is of the considered view that the Tribunal has rightly held the driver of the bus owned by the Appellant Transport Corporation solely responsible for the cause of the accident based on preponderance of probabilities. Therefore, the first contention raised by the Appellant/Transport corporation is rejected by this Court.

6. Insofar as the second contention raised by the Appellant that the quantum of compensation awarded by the Tribunal is excessive is concerned, the same has been duly considered by the Tribunal under the impugned award. The accident happened in the year 2007. In the claim petition, the respondents had claimed a compensation of Rs.17,00,000/-. However, the Tribunal has awarded only a compensation of Rs.5,31,000/- to them. Further in the claim petition, the respondents had claimed that the deceased was earning Rs.15,000/- per month at the time of the accident. However, the Tribunal has fixed the notional monthly income of the deceased at Rs.4,000/-. This Court is of the considered view that the notional monthly income of the deceased

fixed by the Tribunal at Rs.4,000/- cannot be considered to be excessive for an accident which happened in the year 2007. The Tribunal has awarded a compensation of Rs.20,000/- towards loss of love and affection, Rs.20,000/- towards loss of consortium and Rs.5,000/- towards funeral expenses which cannot be considered to be excessive as alleged by the Appellant/Transport Corporation. Therefore, the second contention raised by the Appellant/Transport corporation is also rejected by this Court

7. For the foregoing reasons, there is no merit in this Appeal. Accordingly, the Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

8. It is submitted by the learned counsel for the Appellant that the entire award amount has already been deposited by the Appellant. In the view of the said submission, the Tribunal is directed to transfer the respective share of the award amount along with accrued interest lying to the credit of MCOP.No.1794 of 2008 to the bank accounts of the first respondent/first claimant through RTGS within a period of two weeks thereafter. Since the second respondent being a minor, his respective share of the award amount shall be deposited in interest bearing fixed deposit in anyone of the Nationalized Bank till he attains majority and the first respondent who is the father of the minor second respondent is permitted to withdraw the interest once in six months for the welfare of the minor. If the minor attains the age of majority, it is open for him to file a formal petition before the Tribunal to declare him as a major.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Principal District Judge,
Motor Accidents Claims Tribunal
Salem
2.The Section Officer,
VR Section, High Court,
Chennai.

C.M.A.No.1441 of 2010

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