

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED.22.09.2020

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.3030 of 2010 &
M.P.No.1 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation,
Salem Division
Dharmapuri Appellant/Respondent

vs.

1.Shanthi
2.Ramkumar
3.Pallavi
4.Deepak Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 17.03.2010 and made in MCOP.No.251 of 2009 on the file of the Motor Accident Claims Tribunal, Sub Court, Tirupattur, Vellore District.

For Appellant : Mr.D.Raghu
For Respondents : Mr.A.Venkatesh

JUDGMENT

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

This Appeal has been filed by the Appellant Transport Corporation challenging the award dated 17.03.2010 passed by the Motor Accident Claims Tribunal (Sub Court, Tirupattur, Vellore District) in MCOP.No.251 of 2009.

2. Heard Mr.D.Raghu, learned counsel for the Appellant and Mr.A.Venkatesh, learned counsel for the respondents.

3. The Tribunal under the impugned award directed the Appellant Transport Corporation to pay the respondents a compensation of Rs.5,44,000/- together with interest and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Loss of income	5,04,000/- (4000 - $\frac{1}{4}$ = 3000 x 12 x 14)
Pain and suffering	25,000/-
Medical expenses	5,000/-
Funeral expenses	10,000/-
Total	5,44,000/-

4. The Appellant Transport Corporation has challenged the impugned award on the following grounds namely (a) the Tribunal erred in holding the driver of the bus responsible for the cause of the accident and (b) the quantum of compensation awarded by the Tribunal is excessive.

5. Before the Tribunal, the respondents/claimants have filed seven documents which were marked as Ex.A1 to Ex.A7 and two witnesses were examined namely the wife of the deceased who is the first respondent/first claimant as PW1 and an eyewitness to the accident as PW2. On the side of the Appellant Transport Corporation, no document was filed but one witness was examined as RW1.

6. Insofar as the first contention raised by the Appellant Transport Corporation is concerned, the same has been duly considered by the Tribunal which has rightly rejected the same for the following reasons:

(a) The FIR (Ex.A1) has been registered only against the driver of the bus owned by the Appellant Transport Corporation. The oral evidence adduced by the eyewitness to the accident (PW2) conclusively establishes that only due to the rash and negligent driving by the driver of the bus owned by the Appellant Transport Corporation, the accident had happened which resulted in the death of Subramani. No contra evidence has been produced by the Appellant Transport Corporation to disprove the contention of the respondents/claimants that the sole cause of the accident was the driver of the bus owned by the Appellant Transport Corporation. Therefore, the Tribunal was right in holding the driver of the bus solely responsible for the cause of the accident based on preponderance of probability.

7. Insofar as the second contention raised by the Appellant/Insurance Corporation is concerned, the same will also have to be necessarily rejected by this Court for the following reasons:

(a) In the claim petition, the respondents/claimants had claimed that the deceased Subramani was aged 42 years and was doing coconut wholesale business and was also an agriculturist earning Rs.15,000/- per month at the time of the accident. The accident happened in the year 2009. The Tribunal has fixed the notional monthly income of the deceased only at Rs.4,000/- which cannot be considered to be excessive as alleged by the Appellant Transport Corporation.

(b) Since the dependents of the deceased are four in number, the Tribunal has rightly deducted 1/4th towards the personal expenses of the deceased. The Tribunal has rightly adopted 14 multiplier, since the age of the deceased was 42 years at the time of the accident, which cannot be considered to be wrong as alleged by the Appellant Transport Corporation.

(c) The Tribunal has awarded a compensation of Rs.25,000/- towards pain and suffering, Rs.5,000/- towards medical bills and Rs.10,000/- towards funeral expenses under the impugned award which in the considered view of this Court cannot be considered to be excessive as alleged by the Appellant Transport Corporation.

8. This Court after giving due consideration to the year of the accident, the age and avocation of the deceased subramani, does not consider the compensation awarded by the Tribunal under the impugned award as excessive. Hence, the second contention raised by the Appellant is also rejected.

Conclusion:

9. For the foregoing reasons, there is no merit in this Appeal. Accordingly, this Appeal is dismissed. However, the rate of interest fixed by the Tribunal at 7.5% per annum is confirmed. The Appellant Transport Corporation is directed to deposit the amount awarded by the Tribunal along with interest from the date of claim till the date of deposit and costs after deducting the amount already deposited if any to the credit of MCOP.No.251 of 2009 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the respective award amount along with accrued interest lying to the credit of MCOP.No.251 of 2009 to the bank account of the respective respondents/claimants through RTGS as per the ratio apportioned by the Tribunal within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
Sub Court, Tirupattur,
Vellore District.

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

+1cc to Mr.D.Raghu, Advocate, S.R.No.30837.

C.M.A.No.3030 of 2010

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