

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1466 of 2013

Metropolitan Transport Corporation Ltd.,
Rep. By its Managing Director,
No.2, Pallavan Salai,
Chennai-2.

... Appellant/Respondent

..Vs..

1. P.Lakshmi
2. P.Sarala
3. P.Hemalatha
4. P.Venkatesan
5. P.Sivakami

... Respondents/Petitioners

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 26.07.2011 made in MCOP. No.4083 of 2007 on the file of the Motor Accident Claims Tribunal, (Court of Small Causes) Chennai.

For Appellant : Mr.S.Swaminathan

For Respondents 1 to 5: Not ready in notice

JUDGMENT

(This Appeal was taken up for hearing through Video Conferencing)

This appeal has been filed by the Transport Corporation challenging the impugned award dated 26.07.2011 passed by the Motor Accident Claims Tribunal (Court of Small Causes), Chennai in MCOP.No.4083 of 2007.

2. The appellant/Transport Corporation has challenged the impugned award on the ground that the bus owned by them was not involved the accident which resulted in the death of Parthasarathy. They have also challenged the assessment of the annual income of the deceased at Rs.98,436/- by the Tribunal, which according to them, is on the higher side.

3. A person by name Parthasarathy, died on 29.09.2006, as a result of an accident caused by a bus bearing Registration No.TN

01 N 3197 owned by the Appellant/transport corporation. The legal representatives of the deceased Parthasarathy viz., respondents 1 to 5 have preferred a claim before the Motor Accident Claims Tribunal seeking compensation for the death of Parthasarathy as a result of the accident.

4. The Tribunal, under the impugned award, has directed the appellant/transport corporation to pay the respondents, who are the legal representatives of the deceased Parthasarathy, who died in the accident, a compensation of Rs.8,42,000/- together with interest and costs.

5. The details of the award passed by the Tribunal in favour of the claimants are as follows:

Head	Award passed by the Tribunal (Rs.)
Loss of income	8,12,097/-
Loss of consortium	10,000/-
Loss of love and affection	10,000/-
Funeral expenses	10,000/-
Total	8,42,097/-
Rounded off	8,42,000/-

6. Heard Mr.Swaminathan, learned counsel for the appellant /transport corporation and there is no representation on behalf of the respondents/claimants.

7. Before the Tribunal, the respondents/claimants have filed seven documents, which were marked as Ex.P1 to Ex.P7 and two witnesses were examined on their side, namely, PW1- P.Lakshmi, wife of the deceased Parthasarathy and PW2 - Louis, an eyewitness to the accident. On the side of the appellant/transport corporation, one document was filed which was marked as Ex.R1 (A.R.Copy) and three witnesses were examined namely RW1 to RW3.

8. The first contention raised by the appellant/transport corporation is that they are not liable to compensate the claim since their bus was not involved in the said accident which resulted in the death of Parthasarathy.

9. The Tribunal, after examining the oral and documentary evidence as well as the pleadings of the respective parties, has come to the conclusion that only due to the rash and negligent driving by the driver of the bus owned by the appellant/transport corporation, Parthasarathy died.

10. This Court has also perused and examined the materials and evidence available before the the Tribunal.

11. As seen from the evidence available on record, the appellant has not been able to establish that their vehicle was not involved in the said accident. The FIR (Ex.P1) has been registered only against the driver of the bus owned by the appellant/transport corporation. Subsequently, the charge sheet has also been filed, which was marked as Ex.P3 before the Tribunal. The charge sheet has been filed by the police only against the driver of the bus owned by the appellant/transport corporation. The rough sketch (copy of plan) Ex.P2 with regard to the accident has also been filed by the respondents/claimants. All these documents will clearly reveal that the bus owned by the appellant/transport corporation was involved in the accident. Any adjudication by the Tribunal is done based on preponderance of probabilities. In the case-on-hand, the preponderance of probabilities will clearly show 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 Parthasarathy.

12. The Tribunal has rightly considered the materials and evidence available on record and has rightly held that the appellant/transport corporation is liable for the death of Parthasarathy. Therefore, the first contention raised by the appellant questioning to its liability is rejected by this Court.

13. Insofar as, the quantum of compensation awarded by the Tribunal is concerned, the Tribunal has assessed the annual income of the deceased at Rs.98,436/-. Before the Tribunal, the respondents/claimants have produced the salary certificate of the deceased, which has been marked as Ex.P7. The Tribunal has relied upon the same and has fixed the annual income of the deceased at Rs.98,436/-

14. The year of the accident is 2006. The deceased was working as Head Mazdoor (SG) with Public Works Department, MMC Campus, Chennai-3. In the claim petition, the respondents/claimants had claimed that the deceased was earning Rs.10,040/- per month. After giving due consideration for all these factors, this Court is of the considered view that the assessment of the annual income of the deceased fixed by the Tribunal at Rs.98,436/- , does not merit any questioning. The second contention raised by the appellant is also rejected.

Conclusion:

15. For the foregoing reasons, there is no merit in this appeal. Accordingly, this Appeal shall stand dismissed.

16. The Appellant/Transport Corporation is directed to deposit the Award amount together with interest from the date of claim petition till the date of deposit and costs, as assessed by the Tribunal, after deducting the amount, if any, already deposited, to the credit of MCOP.No.4083 of 2007, 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 amount to the bank account of the respondents/claimants through RTGS within a period of two weeks thereafter.

17. In the result, this appeal is dismissed. There is no order as to costs.

Sd/-
Assistant Registrar (CS IV)

/true copy/
Sub Asst. Registrar

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To

1. The Motor Accident Claims Tribunal, Chief Judge,
(Court of Small Causes) Chennai.

Copy to:

The Section Officer
V.R.Section, High Court of Madras.

+1 cc to Mr.S.S.Swaminathan Advocate sr27657

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