

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2048 of 2013

and

M.P.No.1 of 2013

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

Vs.

1. Rangan
2. Pazhanal W/o.Vaiyapuri
3. Pazhanal W/o.Chittan
4. R. Kamalal ...Respondents/Claimants

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, against the Judgment and Decree passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Tirupur made in MCOP. No.591 of 2011 dated 20.11.2012.

For Appellant : Mr.S.V. Vasanthakumar

For Respondents 2 to 4 : Mr.Ma.Pa. Thangavel

R1-died

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Tirupur made in MCOP. No.591 of 2011 dated 20.11.2012.

2. It is the case of the appellant that on 24.03.2011 at about 11.45 hours when the deceased (Ammasai) was walking in the 4th main road near Seenivasapuram Vetnary Hospital at Avinashi, a bus bearing Registration No. TN-38-N-1869 driven by its driver in a rash and negligent manner without adhering the traffic regulation and dashed against the deceased. In the result the deceased sustained injuries and taken to Government Hospital but unfortunately she died. The accident occurred due to the rash

and negligent driving of the driver of the bus. Hence, the legal heirs of the deceased filed a claim petition before the Tribunal against the Transport Corporation seeking Rs.7,00,000/- as compensation.

3.The Tribunal, considering the pleading, oral and documentary evidence, allowed the petition in favour of the claimants and awarded a sum of Rs.4,30,488/- as compensation with 7.5% interest to the claimants.

4.Aggrrieved by the said award, the appellant/Transport corporation has filed this appeal before this Court.

5.The learned counsel for the Transport Corporation denied all the allegations made by the claimants, and also filed a counter affidavit before the Tribunal, stating that the F.I.R. was registered without proper investigation based on the false complaint given by a Village Administrative Officer, who is not an eyewitness to the occurrence. The accident took place only due to negligence of the deceased. Further, the Tribunal has awarded a sum of Rs.4,30,488/- as compensation, which is very excessive.

6.The learned counsel for the claimants contended that due to the sudden demise of the sole bread winner of the family, the other family members are suffering from mental agony. He would further contend that the amount awarded by the Tribunal is very low for the death of the deceased.

7.During the trial, before the Tribunal, on the side of the claimants three witnesses viz., P.W.1 to P.W.3 were examined and marked the following documents:-

Ex.P1 : Copy of the F.I.R.

Ex.P2 : Post Mortem Report

Ex.P3 : Death Certificate

Ex.P4 : Legal heir Certificate

On the side of the respondents, One Tamil Vanan was examined as R.W.1 and no documents were filed.

8. On perusal of the award dated 20.11.2012 passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Tirupur it is seen that certain aspects such as i.e. whether the accident had occurred due to the rash and negligent driving of the driver of the bus and whether the claimants are entitled to receive any compensation, if so how much compensation. Before the Tribunal P.Ws.1 to 3 were examined and all of them deposed that the rash and negligence driving of the driver of the bus is the cause for the accident, whereas P.W.2 is the eyewitness to the occurrence. Ex.P.1/F.I.R also corroborates with the deposition of the claimants. Ex.P.4/ Legal heir Certificate was

produced to substantiate that the claimants are the legal heirs of the deceased. Based on the above materials the Tribunal arrived at a conclusion that the driver of the bus is the cause for the accident and the claimants are the legal heirs of the deceased and they are entitled for compensation. Hence, the same does not require any interference by this Court and the same is confirmed.

9. With regard to quantum, based on the avocation of the deceased Rs.4,550/- is taken as monthly income and 1/3rd (Rs.4,550-Rs.1516 = Rs.3,034/-) and arrived Rs.36,048/- as annual income and also considering the age of the deceased multiplier '11' was adopted and quantified Rs.4,00,488/- (Rs.36,408 x 11) as loss of income. First respondent has lost his wife hence Rs.5,000/- was awarded towards loss of consortium and the respondents 2 to 4 have lost their loveable mother hence Rs.20,000/- was awarded towards loss of love and affection. Apart from this Rs.5,000/- was awarded towards Funeral expenses. Thus, the total compensation was arrived at Rs.4,30,488/- The findings rendered by the Tribunal are persuasive which cannot be brushed aside easily. No new fact is forthcoming to assail the reasonings rendered by the Tribunal. Hence, the findings on negligence as well as on quantum rendered by the Tribunal are confirmed as such.

10. In view of the above, this Court do not find any error in the award dated 20.11.2012 passed by the Tribunal in M.C.O.P.No.519 of 2011. Hence, this Court is not inclined to interfere with the same.

11. In the result, the Civil Miscellaneous Appeal is dismissed and a sum of Rs.4,30,488/- awarded by the Tribunal as compensation to the claimants is hereby confirmed. The appellant/Transport corporation is directed to deposit the entire amount awarded by the Tribunal along with interest and costs, less the amount already deposited if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw the compensation as per the ratio of apportionment fixed by the Tribunal along with interest and costs, less the amount, if any, already withdrawn, by filing an appropriate application before the Court concerned. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

smn

To

1.The Motor Accident Claims Tribunal
Chief Judicial Magistrate Court, Tirupur.

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

+lcc to M/s.Ma.P.Thangavel, Advocate SR.8797

C.M.A.No.2048 of 2013
and
M.P.No.1 of 2013

AK(CO)
CB(17/03/2021)



WEB COPY