

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.861 of 2014

M/s.Tamil Nadu State Transport Corporation Limited (Tirunelveli),
Nesamani Nagar, Rani Thottam,
Nagercoil. ...Appellant/Ist Respondent

vs.

1.Marry Philomina Dubin
2.Minor Vaishnavi ...1st and 2nd Respondents/
1st & 2nd Petitioners
(Minor rep by her natural guardian and natural friend
Mother/Ist Respondent J.Marry Philomina Dubin)
3.Chellaiyan
4.Pounammal ... 3rd and 4th Respondents/
2nd and 3rd Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act, 1988, praying to set aside the award dated
12.11.2011 in M.C.O.P.No.152 of 2010 on the file of Motor
Accidents Claims Tribunal (Principal District judge), Perambalur.

For Appellant : Mr.D.Venkatachalam

For Respondents : Mr.S.Kamadevan for R1 & R2
No appearance for R3 & R4

JUDGMENT

(This case was heard through Video Conferencing)

This appeal has been filed by the Transport Corporation
challenging the Award dated 12.11.2011, passed by the Motor
Accident Claims Tribunal, Principal District Judge, Perambalur,
in M.C.O.P. No.152 of 2010.

2. Heard Mr.D.Venkatachalam, learned counsel for the
appellant and Mr.S.Kamadevan, learned counsel for the
respondents 1 and 2.

3. The appellant / Transport Corporation has challenged the Award on the following two grounds: a) The Tribunal erred in giving a finding that the accident occurred only due to rash and negligent driving of the driver by the bus owned by the appellant / Transport Corporation and b) the quantum of compensation awarded by the Tribunal is excessive.

4. The Tribunal under the impugned Award has directed the appellant / Transport Corporation to pay a compensation of Rs.6,90,000/-, to the claimants together with interest and cost as detailed hereunder:

Pecuniary Loss	-	Rs.6,48,000/-
Loss of Consortium to the 1 st petitioner-	Rs.	25,000/-
love and affection to 2 nd petitioner	-	Rs. 5,000/-
love and affection to 2 nd respondent	-	Rs. 5,000/-
love and affection to 3 rd respondent	-	Rs. 5,000/-
Funeral expenses to petitioners	-	Rs. 2,000/-

Total	-	Rs.6,90,000/-

5. Before the Tribunal, the claimants have filed eight documents which were marked as Exs.P1 to P8 and two witnesses were examined on their side namely PW1 - the first claimant and PW2 - an eye witness to the accident. On the side of the appellant / Transport Corporation, one witness was examined as RW1 and no document was filed before the Tribunal.

6. The deceased S.Jaganraj was aged 25 years and was employed as a driver at the time of the accident. In the claim petition filed by the claimants before the Tribunal, they have pleaded that the deceased was earning Rs.7,500/- per month. However, the Tribunal has assessed the notional income of the deceased at Rs.4,500/- per month and also deducted 1/3rd towards personal expenses of the deceased and after the said deduction, the monthly income was assessed at Rs.3,000/-. The Tribunal has rightly applied the 18 multiplier, since the deceased was aged 25 years at the time of the accident. The age and avocation of the deceased has not been disputed by the appellant / Transport Corporation, as seen from the evidence available on record. Accordingly, pecuniary loss was assessed at Rs.6,48,000/- by the Tribunal. The compensation awarded by the Tribunal under various other heads as indicated in the earlier part of this judgment cannot also be considered to be excessive.

7. Therefore, the first contention raised by the appellant that the compensation awarded by the Tribunal is excessive, is rejected by this Court. With regard to the second contention raised by the appellant / Transport Corporation as regard its

liability, the Tribunal has rightly considered the evidence available on record and has come to the right conclusion that the driver of the bus owned by the appellant / Transport Corporation is alone responsible for the cause of the accident. The F.I.R. (Ex.P1) has been registered only against the driver of the bus owned by the appellant / Transport Corporation. The eye witness to the accident (PW2) has also deposed 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. No contra evidence has been produced by the appellant / Transport Corporation to disprove the contents of the F.I.R. The adjudication of any claim by the Motor Accident Claims Tribunal is done on preponderance of probabilities. The preponderance of probability in the instant case conclusively establishes that the driver of the bus owned by the Appellant / Transport Corporation was alone responsible for the cause of accident. Hence the second contention raised by the appellant is also rejected by this Court.

8. For the foregoing reasons, there is no merit in this appeal and the appeal shall stand dismissed. The Appellant Transport Corporation is directed to deposit the amount awarded by the Tribunal, after deducting the amount already deposited if any, together with interest at the rate of 7.5% from the date of the claim till the date of realization to the credit of M.C.O.P.No.152 of 2010 on the file of the Motor Accidents Claims Tribunal Principal District Judge, Perambalur, 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 shares of the Award amount directly to the bank accounts of the respondents /claimants, through RTGS, within a period of two weeks thereafter. No Costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Pns

To

The Motor Accident Claims Tribunal,
Principal District Judge,
Perambalur.

Copy to

The Section Officer,
Vernacular Section,
Madras High Court.

C.M.A.No.861 of 2014

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srg 11/05/2021



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