



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) No.1625 of 2008

WEB COPY

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore
37, Mettu Palayam Road
Coimbatore 641 043

... Appellant/Respondent

-vs-

K.Renugadevi

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Award, made in M.C.O.P.No.2313 of 2004, dated 26.06.2007, on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruchirapalli.

For Appellant : Mr.N.Asaithambi

For Respondent : Mr.B.Prasanna Vinoth

J U D G M E N T

The appellant - Transport Corporation challenges the Judgment and Award, dated 26.06.2007, passed in M.C.O.P.No.2313 of 2004, by the Motor Accident Claims Tribunal / Sub Court, Tiruchirappalli, in this civil miscellaneous appeal.

2. The first respondent filed the claim petition claiming compensation of Rs.10,00,000/- for the death of her husband Kothandapani in a motor vehicle accident that had taken place on 18.07.2004. It is the case of the claimant that on the fateful day, the deceased was riding his TVS Moped bearing registration No.TN45 Q4691 along with his friend slowly and cautiously from north to south direction near Thillar Nagar North Arch, Trichirappalli. At that time, a bus bearing registration No.TN33 N1485 belonging to the appellant - Transport Corporation came from the opposite direction in a high speed and dashed against the two wheeler. In the impact, the deceased fell down and he was ran over and died on the spot. It is the further case of the claimant that her husband was aged 49 years and he was working as Development Assistant in Visalam Chits Private Limited and he was earning Rs.8,500/- per month.



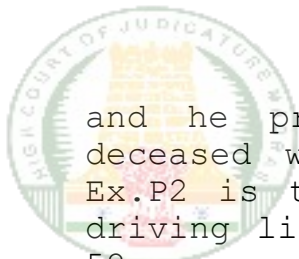
3. The appellant - Transport Corporation filed a detailed counter stating that on 18.07.2004, the driver of the appellant - Transport Corporation's bus drove it with all care and caution from Trichy to Covai and about 12.40 p.m. when the bus was nearing Thillai Nagar North Arch, the driver drove the bus in slow speed, but the rider of the two wheeler tried to overtake the bus. At that time, an Auto bearing registration No.TN45 Q6510 dashed against the two wheeler and the rider of the two wheeler fell down. So, the appellant - Transport Corporation is not responsible for the accident.

4. Before the Tribunal, on the side of the claimant, P.Ws.1 to 3 were examined and Exs.P1 to P6 were marked and on the side of the Transport Corporation, R.W.1 was examined and Ex.R1 was marked. The Tribunal, after analyzing the evidence adduced by the parties, found that the driver of the Transport Corporation's bus was responsible for the accident and awarded a compensation of Rs.3,72,000/- along with interest at the rate of 7.5% per annum. Challenging the same, the present appeal has been filed.

5. Heard Mr.N.Asaitambi, learned counsel appearing for the appellant - Transport Corporation and Mr.B.Prasana Vinoth, learned counsel appearing for the respondent / claimant and carefully perused the materials available on record.

6. In this case, one Periasamy (P.W.2) was examined as eyewitness to the accident. According to him, on 18.07.2004 at 00.30 hours, the deceased was riding his two wheeler, in which he travelled as pillion rider. When the two wheeler was proceeding slowly, the driver of the bus came in a high speed and hit against the two wheeler. During examination, the driver of the bus, who was examined as R.W.1, has admitted that at the time of the accident, the bus was proceeding near Thillai Nagar North Arch, Trichy. After the accident, admittedly, the driver of the bus R.W.1 did not give any complaint to the Police. Ex.R1 - copy of the Judgment in the criminal case shows that the driver of the bus was charge sheeted under Section 304-A I.P.C. and he was acquitted by the Criminal Court. Ex.P1 is the first information report. The Tribunal giving valid reasons rejected the evidence of R.W.1 and accepting P.W.2's evidence held that the driver of the bus was responsible for the accident. The Tribunal has rightly held that the finding of the Criminal Court is not binding on the Tribunal and they can independently assess the evidence and fix the negligence.

7. The claimant (P.W.1) deposed before the Tribunal that her husband was working as Development Assistant in Visalam Chits Private Limited and his monthly salary was Rs.8,500/-. To prove the same, the Branch Manager of the Chit Company was examined as P.W.3



and he produced the salary certificate, which shows that the deceased was paid Rs.3,215/- per month and Rs.5,076/- as bonus. Ex.P2 is the copy of the postmortem certificate and Ex.P3 is the driving licence of the deceased, which shows that the deceased was 52 years at the time of the accident. The Tribunal fixed the monthly income of the deceased as Rs.4,000/- and the yearly income as Rs.48,000/- and after deducting 1/3rd for his personal expenses, fixed Rs.32,000/- as annual contribution of the deceased and by applying multiplier "11" awarded Rs.3,52,000/- (Rs.32,000/- X 11) towards loss of income. In addition, the Tribunal awarded Rs.5,000/- towards loss of consortium, Rs.5,000/- towards loss of love and affection, Rs.5,000/- towards transportation expenses and Rs.5,000/- towards funeral expenses. In total, the Tribunal awarded Rs.3,72,000/- along with interest at the rate of 7.5% per annum as compensation. After going through the records, I am of the opinion that the award of the Tribunal is fair and reasonable, which does not warrant any interference of this Court.

8. For the foregoing reasons, the civil miscellaneous appeal is dismissed, as devoid of merits. Since the appeal is dismissed, the appellant - Transport Corporation is directed to deposit the entire award amount with accrued 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 order. On such deposit, the claimant is permitted to withdraw the award amount, less the amount already withdrawn, if any, together with interest and costs. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

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Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the Judgment may be utilized for official purposes, but, ensuring that the copy of the Judgment that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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To:

1.Motor Accident Claims Tribunal,
The Sub Judge,
Tiruchirapalli.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

+1 CC to M/s.B.PRASANA VINOTH, Advocate (SR-24206[F] dated
07/12/2020)

C.M.A. (MD) No.1625 of 2008

04.12.2020

KM(CO)

NR (31/12/2020) 4P : 5C