



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2020

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THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

CMA (MD) .No.493 of 2020

and

CMP (MD) .No.5395 of 2020

M/s. Tamil Nadu State Transport Corporation Limited,
rep. through its General Manager,
Karikaikudi. ...Appellant/Respondent

Vs.

V.Murugan (died)
1.Revathy
2.Prabhu
3.Sudha

... Respondents/Petitioners 2 to 4

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act against the Award and Decree made in MCOP.No.1817 of 2009, dated 04.10.2013 on the file of the Motor Accident Claims Tribunal / VI Additional District Court, Madurai.

For Appellant ... Mr.P. Prabhakaran

JUDGMENT

This Civil Miscellaneous Appeal is preferred by the appellant / Transport Corporation against the Award passed by the Motor Accidents Claims Tribunal / VI Additional District Court, Madurai, dated 04.10.2013 in MCOP.No.1817 of 2009.

2. The short facts of the case are as follows:

(i) The deceased respondent was riding a bicycle near Thiruvadanai Bharathi Nagar Telephone Exchange on 24.06.2009 at about 10.00 a.m., and at that time, the bus belonging to the appellant / Transport Corporation bearing Regn. No.TN 63N 0710, driven by its driver in a rash and negligent manner, hit the bicycle and caused grievous injuries to the cyclist. The cyclist was admitted in Madurai New Vikram Hospital as an inpatient and succumbed to injuries on 30.07.2010.



(ii) Aggrieved over the fatal accident caused by the appellant / Transport Corporation, the Legal Representatives of the deceased have filed this claim petition.

(iii) Before the Tribunal, on the side of the claimants, PW.1 to PW.4 were examined as witnesses and Exs.P1 to P12 were marked as exhibits. On the side of the Transport Corporation, one Naganatha Boopathy was examined as witness and no documents were marked.

(iv) The Tribunal, after considering the First Information Report and the manner of accident, has found that the accident had happened due to the rash and negligent driving of the driver of the appellant / Transport Corporation bus. PW.2 - eye witness has categorically deposed that the accident had happened due to rash and negligent driving of the driver of the bus. Further, the evidence of RW.1 that the cyclist was in a drunken mood and contributed to the accident was not proved by any evidence.

3. Even before this Court, the learned counsel appearing for the appellant / Transport Corporation is not in a position to show that the accident had happened due to the negligence of the cyclist. On the other hand, the oral evidence would show that the accident had happened due to rash and negligent driving of the driver of the appellant / Transport Corporation bus. Hence, I do not find any reason to interfere with the finding of the Tribunal fixing the liability on the appellant / Transport Corporation.

4. Now, coming to the quantum of compensation, the deceased was 52 years old and was earning Rs.5,000/- per month on daily wages. The Tribunal has considered the Notification under the Minimum Wages Act and fixed the monthly income at Rs.4,000/- and deducted 1/3rd towards personal expenses and fixed the compensation taking the monthly income as Rs.2,700/-, by applying appropriate multiplier method. The Tribunal has also awarded Rs.15,000/- towards loss of love and affection and Rs.10,000/- towards Consortium to the wife of the deceased and Rs.5,000/- towards funeral expenses. The Award of compensation under all these heads does not appear to be excessive.

5. Therefore, in respect of quantum also I do not find any reason to interfere with the Award passed by the Tribunal. It is not clear as to whether any appeal has been preferred by the claimants for enhancement. However, without expressing any opinion on the grant of award and without prejudice to the rights of the claimants, the Civil Miscellaneous Appeal stands dismissed as it merits no consideration.

6. It is reported by the learned counsel appearing for the appellant / Transport Corporation that the appellant / Transport Corporation has already deposited the entire award amount before the



Tribunal along with accrued interest. Hence, the claimants are entitled to withdraw the same from the Tribunal as per the apportionment fixed by the Tribunal. No costs. Consequently, the connected Miscellaneous Petition also dismissed.

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Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

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

To

The VI Additional District Court,
Motor Accident Claims Tribunal/
Madurai.

Copy to

The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai (2 copies)

+1 CC to Mr.P.PRABHAKARAN, Advocate (SR-21237[F] dated 05/11/2020)

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VB (11.12.2020) 3P 5C