



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. No.4446 of 2019
and C.M.P. No.25198 of 2019

The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore Division - I) Limited,
Coimbatore 43.

... Appellant/Respondent

Vs.

1.Subramanian

2.Annapoorni

... Respondents/Claimants

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 15.04.2014, made in M.C.O.P. No.1122 of 2011, on the file of the Sub Court, (Motor Accident Claims Tribunal), Tiruppur.

For Appellant : Mr.K.J.Sivakumar

For Respondents : Mr.S.P.Yuaraj

J U D G M E N T

The matter is heard through "Video Conferencing".

This Civil Miscellaneous Appeal has been filed by the appellant-Transport Corporation against the judgment and decree dated 15.04.2014, made in M.C.O.P. No.1122 of 2011, on the file of the Sub Court, (Motor Accident Claims Tribunal), Tiruppur.

2.The appellant is the respondent in M.C.O.P. No.1122 of 2011, on the file of the Sub Court, (Motor Accident Claims Tribunal), Tiruppur. The respondents/claimants filed the said claim petition, claiming a sum of Rs.15,00,000/- as compensation for the death of their son viz., Govindaraj, who died in the accident that took place on 29.05.2011.

3.According to the respondents, on the date of accident, when the deceased was riding his Two wheeler bearing



Registration No.TN-37-AV-4892 from South to North in the Amparapalayam to Chetthumadai road, near PAP Colony, Vettaiyanpudhur, the driver of Bus bearing Registration No.TN-38-N-0898 belonging to the appellant-Transport Corporation coming from North to South, drove the same in a rash and negligent manner and dashed on the Two wheeler driven by the deceased and caused the accident. The accident occurred due to negligent driving by driver of the Bus. In the accident, the deceased succumbed to fatal injuries. Hence, the respondents filed claim petition claiming compensation against the appellant as owner of the Bus involved in the accident.

4.The appellant-Transport Corporation, filed counter statement and denied all the averments made by the respondents in the claim petition. According to the appellant, on the date of accident, after alighting passengers at PAP Bus stop, when the Bus was driven by its driver carefully at the left hand side of the 100 feet road, the deceased rode the Motorcycle bearing Registration No.TN-37-AV-4892 at a hectic speed, in rash and negligent manner at the right hand side of the road in opposite direction. On seeing this, the driver of the Bus hooted horn and swerved the Bus into his extreme left and halted the Bus in order to avoid any accident. In spite of that, the deceased dashed at the front right corner of the stationed Bus and caused the accident. FIR was also registered against the deceased based on the evidence of an eye-witness. The claim petition is bad for non-joinder of insurer of the Motorcycle. The deceased did not possess valid driving license at the time of accident. The respondents have to prove the age, avocation and income of the deceased to claim compensation. In any event, the total compensation claimed by the respondents is excessive and prayed for dismissal of the claim petition.

5.Before the Tribunal, the 1st respondent examined himself as P.W.1, examined two eye witnesses viz., Mahalingam and Kanagaraaj as P.W.2 and P.W.3 respectively and 5 documents were marked as Exs.P1 to P5. The appellant examined the Conductor of the Bus involved in the accident as R.W.1, but did not mark any documents.

6.The Tribunal considering the pleadings, oral and documentary evidence, held that accident occurred due to negligence of both the driver of the Bus belonging to the appellant-Transport Corporation as well as deceased/rider of the Two wheeler and fixed contributory negligence as 75:25 and awarded a sum of Rs.15,35,000/- as compensation to the respondents. The Tribunal directed the appellant to pay a sum of Rs.11,51,250/-, being 75% of the award amount as compensation to the respondents.



३१.५ भाषाएं और लिपि

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the amount awarded by the Tribunal at Rs.15,35,000/- is modified to Rs.14,35,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant-Transport Corporation is directed to deposit a sum of Rs.10,76,250/-, being 75% of the award amount along with interest and costs, less the amount already deposited, within a period of twelve weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.



No.1122 of 2011. On such deposit, the respondents are permitted to withdraw their respective share of the award amount with proportionate interest and costs, as per the ratio of apportionment fixed by the Tribunal, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Deputy Registrar(LA)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Subordinate Judge,
(Motor Accident Claims Tribunal),
Tiruppur.

Copy to :

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

+1cc to Mr.S.P.Yuaraj, Advocate, S.R.No.4170
+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.4088

C.M.A. No.4446 of 2019

BS(CO)
HS(14/09/2021)