



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

C.M.A.No.1341 of 2017

The Managing Director
Tamil Nadu State Transport Corporation
Villupuram.

...Appellant/Respondent

Vs.

1. Valli W/o. Aruldoss,
2. Minor Lavanya
3. Minor Nandini
4. Minor Arunpandi
(Minors are rep by their Mother 1st Respondent)
5. Rathanaavathy

...Respondents/Petitioners

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, pleaded to set aside the Decree and Judgment dated 05.03.2016 made in M.C.O.P.No.175 of 2011 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Chengalpattu.

For Appellant : Mr.K.J.Sivakumar

For Respondents : No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed challenging the contributory negligence fixed on the part of the appellant as well for enhancement of compensation granted by the Tribunal in the award dated 05.03.2016 made in M.C.O.P.No.175 of 2011 on the file of the Motor Accidents Claims Tribunal, The Principal Subordinate Judge Chengalpattu.

2. The respondents are the claimants in M.C.O.P.No.175 of 2011 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge Chengalpattu. He filed the said claim petition, claiming a sum of Rs.11,00,000/- as compensation



for the death of one Aruldoss who died in the accident that took place on 19.06.2011.

3. According to the claimants, on 19.06.2011, the deceased Aruldoss after finishing his work was proceeding from Vaikai Hotel to his home by walk in correct direction of the Bye Pass Road Chengalpattu. When he was proceeding near Pazhaveli Bus stop by following the rules of the road, the appellant Transport Corporation bus came from Madras towards Thindivanam with high speed in a rash and negligent manner and dashed against Aruldoss which resulted in his spot death. The said accident was occurred due to the rash and negligent driving of the driver of the bus. Hence the respondents herein, who are the legal heirs of the deceased Aruldoss, filed a claim petition before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal awarded Rs.7,67,500/- as compensation with interest at the rate of 7.5% per annum.

4. Before the Tribunal, the 1st respondent examined herself as P.W.1, Panner Selvam was examined as P.W.2 and Santhanam was examined as P.W.3 and 4 documents were marked as Exs.P1 to P4. The appellant-Transport Corporation did not let in any oral and documentary evidence.

5. The Tribunal, after considering the pleadings, oral and documentary evidence, came to the conclusion that the driver of the appellant-Transport Corporation bus was responsible for the said accident and awarded a sum of Rs.7,67,500/- as compensation to the respondents 1 to 5, who are the legal heirs of the deceased Aruldoss.

6. Against the said award dated 05.03.2016 made in M.C.O.P.No.175 of 2011, the appellant/Transport Corporation has filed the present appeal, challenging the liability as well as quantum of compensation.

7. The learned counsel for the appellant submitted that the driver of the bus bearing Reg.No.TN - 25 - 0126 while driving the bus towards Thiruvannamalai near Pazhaveli Bus stop saw a dead body on the road in front of the bus and suddenly applied the breaks. At that time, a TATA Indica Car bearing Reg.No.TN-25-Q-4560 which was following the bus in a very close range, without leaving any sufficient space between the bus and the car unable to control the speed, dashed against the rear end of the bus and as a claim reaction another TATA Indica Car bearing Reg.No.TN-31-AC-9168 which was following the TATA Indica Car bearing Reg.No.TN-25-Q-4560 also dashed and caused the

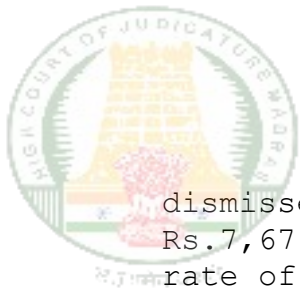


accident. Hence the driver of the bus did not dash against the deceased Aruldoss. The amounts awarded by the Tribunal under other heads are also excessive. The total compensation awarded by the Tribunal at Rs.7,67,500/- is highly excessive and prayed for setting aside the award passed by the Tribunal.

8. Heard the learned counsel appearing for the appellant-Transport Corporation and perused the entire materials on record.

9. It is a case of fatal accident that took place on 19.06.2011 at Pazhavali bus stop which claimed the life of one Aruldoss. According to the appellant Transport Corporation, while the driver of the bus bearing Reg.No.TN-25-0126 came from Madras towards Thindivanam, on seeing a dead body in the road near pazhavali bus stop, stopped the bus 20 feet before it. But under the presumption that the accident was caused by the said Bus bearing Reg.No.TN-25-0126, compensation has been awarded by the Tribunal. It is also the case of the appellant that the TATA Indica Car bearing Reg.No.TN-25-Q-4560 which was following the bus in a very close range without leaving any sufficient space between the bus and car, unable to control the speed, dashed against the rear end of the bus and as a chain reaction, another TATA Indica Car bearing Reg.No.TN-31 AC 9168 which was following the TATA Indica Car bearing Reg.No.TN-25-Q-4560 also dashed and caused the said accident. The Tribunal taking note of the exhibits, pleadings of the parties, came to the conclusion that the driver of the bus bearing Reg.No.TN-25-0126 caused the accident, disbelieving the version of the appellant that the Bus did not cause any accident and only the TATA Indica Car which was following the bus dashed the bus behind and on account of the said collusion, another TATA Indica Car bearing Reg.No. TN-31-AC 9168 which was following TATA Indica Car bearing Reg.No.TN-25-Q-4560 also dashed and caused the accident. But, as rightly held by the learned Tribunal, there is no evidence by the Transport Corporation to substantiate the said cause for the accident. Therefore, the Tribunal, considering the facts and circumstances of the case, awarded compensation of Rs.7,67,500/-. Further, since the accident took place on 19.06.2011 and now, 10 years have gone by, I find no reason to interfere with the award of the Tribunal. Hence, the Civil Miscellaneous Appeal is liable to be dismissed.

10. As far as quantum is concerned the amount awarded by the Tribunal is just and reasonable and the same does not require any modification and therefore, the present Civil Miscellaneous Appeal deserves to be dismissed.



11. In the result, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal at Rs.7,67,500/- is hereby confirmed 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 the award amount 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, to the credit of M.C.O.P.No.175 of 2011 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Chengalpattu. On such deposit, the respondents are permitted to withdraw their respective share of the award amount as per the ratio of apportionment fixed by the Tribunal, along with proportionate interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

dpq
To

1.The Motor Accident Claims Tribunal,
Principal Subordinate Judge,
Chengalpattu.

Copy to

The Section Officer
VR Section
High Court, Madras 104.

+1 Cc to Mr.K.J.Sivakumar, Advocate sr 38694.

CMA.No.1341 of 2017

JPL(CO)
SP(06/12/2021)