



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 09.04.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD)No.623 of 2011

and

M.P(MD)No.1 of 2011

The Managing Director
Tamil Nadu State Transport Corporation
Division -V,
Madurai.

.. Appellant/Respondent

vs.

1.Ramasamy

2.Suresh

...Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to set aside the Judgment and Decree passed in MCOP No.201 of 2004 dated 28.09.2007 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Virudhunagar.

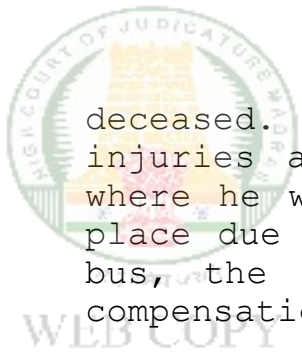
For Appellant : Mr.M.Prakash

For Respondent : No appearance for R2
R-1 Died

J U D G M E N T

Challenging the award passed by the Motor Accident Claims Tribunal, Subordinate Judge, Virudhunagar, in M.C.O.P.No.201 of 2004 dated 28.09.2007, the Transport Corporation has filed this appeal.

2.It is the case of the claimants that on 05.09.2004 at 03.15 p.m, at Virudhunagar Bye pass Road, near Sivakasi Junction, the deceased Raj Naicker was walking on the left side of the road. At that time, the bus owned by the appellant Transport Corporation bearing registration No.TN-58-N-0245 while overtaking a lorry was driven in rash and negligent manner and dashed against the



deceased. In that accident, the deceased sustained severe injuries and was taken to the Virudhunagar Government Hospital, where he was reported dead. Alleging that the accident had taken place due to the rash and negligent driving of the driver of the bus, the legal heir of the deceased laid a petition, claiming compensation of Rs.1,00,000/-.

3.Resisting the claim, the appellant Transport Corporation filed their counter disputing the manner of accident, age, avocation and income of the deceased and its liability to pay the compensation.

4.To substantiate the case, on the side of the claimant P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P5 were marked. On the side of the appellant/Transport Corporation, R.W.1 Driver of bus was examined, but no document was produced.

5.The Tribunal, after considering the oral and documentary evidence held that the driver of the bus belonging to the appellant Transport Corporation was responsible for the accident and awarded compensation of Rs.62,000/- along with interest at the rate of 7.5% p.a. Assailing the award, the appellant Transport Corporation has filed the present appeal.

6.Heard the learned counsel appearing for the appellant Transport Corporation and perused the materials available on record.

7.This appeal has been filed only challenging the quantum, hence, the other issues need not be dealt with herein.

8.Though the learned counsel for the appellant Transport Corporation has contended that the award is on the higher side and it requires reduction, I find no substance in the said submission for the reason that the Tribunal found that the deceased died at the age of 75 years and he was earning Rs.1,500/- per month and after deducting 1/3rd therefrom for his personal expenses, applied multiplier '5' to determine compensation for loss of income Rs.60,000/- and Rs.2,000/- was awarded under loss of dependency and funeral expenses respectively.

9.In such view of the matter, the Civil Miscellaneous Appeal fails and the same 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 second claimant is permitted to withdraw the award amount, less the amount already withdrawn, if



any, together with proportionate interest and costs. No costs.
Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (T&P)

/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The Subordinate Judge,
Motor Accident Claims Tribunal,
Virudhunagar.
- 2.The Record Keeper-2 copies
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

JUDGMENT MADE IN
C.M.A (MD) No. 623 of 2011
and
M.P (MD) No. 1 of 2011
09.04.2021

KM(31.05.2021) 3P 4C