



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 16.12.2020

DATE ON WHICH PRONOUNCED : 11.01.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

C.M.A. (MD).No.710 of 2011

and

MP (MD) No. 1 of 2011

WEB COPY

The Managing Director,
Tamil Nadu State Transport Corporation,
Tamil Nadu State Transport Corporation Office,
Salem Post,
Salem District.

: Appellant /Respondent

Vs.

1.Ojeer Beevi

: 1st Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.238 of 2009, dated 24.11.2010, on the file of the Motor Accident Claims Tribunal/Principal District Court, Karur.

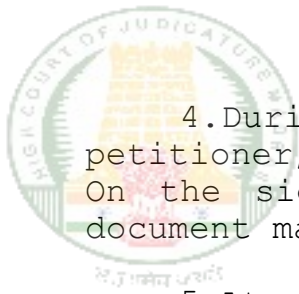
For Appellant : Mr.M.Prakash
For Respondent : Mr.P.Janarth Kumar

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the judgment and decree passed in M.C.O.P.No.238 of 2009, dated 24.11.2010, on the file of the Motor Accident Claims Tribunal/Principal District Court, Karur.

2.The case of the claimant before the Tribunal is that on 01.04.2007, at about 01.00 p.m., the deceased was walking along the Pallapatti bus stand road. At that time, a bus belongs to the appellant/respondent was driven by its driver in a rash and negligent manner and dashed against the deceased. She was crushed under the wheel and died on the spot. She was aged about 42 years and earning a sum of Rs.4,500/- as servant maid in the house of B.S.A.Abdul Wahab. The first respondent/petitioner is the mother of the deceased, claiming compensation of Rs.5 lakhs, approached the Tribunal.

3.The appellant/respondent has contented that, at the time of the occurrence, the bus driver started the bus. But, the deceased suddenly crossed the road, carrying heavy luggage in both hands. In spite of best efforts made by the driver to avoid the accident, it happened. So, only the deceased was responsible for the accident.



4. During enquiry before the Tribunal, on the side of the petitioner, two witnesses were examined and five documents marked. On the side of the respondent, one witness was examined and no document marked.

5. At the conclusion of enquiry, the Tribunal came to the conclusion that the accident took place only due to the rash and negligent driving on the part of the appellant's/respondent's bus driver.

6. Regarding the compensation, it assessed the same, at Rs.3,36,000/- (Rupees Three Lakhs and Thirty Six Thousand Only) and 7.5% interest was also levied. Against the quantum as well as the liability, the appellant/respondent is before this Court.

7. Regarding the accident, P.W.2 was examined as eye-witness. He would say that the deceased was walking along the road keeping left side. The appellant's bus driver dashed against her by rash and negligent driving. As mentioned earlier, the appellant says that, only the deceased suddenly crossed the road and invited the accident. The driver, was examined as R.W.1. He would say that when he started the bus slowly and dropped the passenger, the deceased suddenly crossed the road with heavy luggage at both hands and she only fell before the bus and invited the accident. He also admits that after the occurrence, First Information Report was lodged against him and criminal case is also pending. The manner of the accident clearly shows that, the appellant's vehicle driver is responsible for the accident. P.W.2 has stated that the deceased was not crossing the road, at that time. R.W.1, says that she was crossing. It is natural for the bus drivers to make such counter accusation against the injured persons in the case of accident. If really, it was so, he would have informed the police first and there was no such attempt. So, the findings of the Tribunal that only the appellant's driver was responsible for the accident requires no interference and it is sustained.

8. Regarding the quantum, the Tribunal has assessed the monthly income as Rs.3,000/-. Normally, such an amount is taken for assessing the compensation in respect of women guard doing house works. P.W.2 has stated that she lost the income derived by the deceased. So, the monthly income of the deceased can be fixed at Rs.3,000/-. The age of the deceased as per the postmortem report, was fixed as 42. There is no other documents or evidence, either to support or to contradict to seen. So 1/3 has to be deducted and monthly loss of estate is fixed at Rs.2,000/- and yearly loss is estimated as Rs.24,000/-. Since, she was aged about 42 at the time of the death as per the guide lines in the case of **Sarla verma (Smt) and others Vs Delhi Transport Corporation and another AR 2009 SC 3104**, the same is taken as '14' by the Tribunal and it is maintained. The total loss of estate estimated as Rs.3,36,000/- and



it is also maintained. Love and affection is fixed as Rs.15,000/-, Funeral Expenses is fixed as Rs.10,000/-. The total compensation arrived by the Tribunal is Rs.3,61,000/- (Rupees Three Lakhs and Sixty One Thousand Only) . Therefore, the calculation as well as the assessment of Loss of Estate by the Tribunal, appears to be fair and reasonable. So, the argument on the side of the appellant that the assessment on the higher side is not acceptable. So, it requires no interference. and the appeal is liable to be dismissed.

9.The award passed by the Motor Accident Claims Tribunal/Principal District Court, Karur, in M.C.O.P.No.238 of 2009, dated 24.11.2010, is confirmed and the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dss

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

- 1.The Principal District Judge,
Motor Accident Claims Tribunal,
Karur.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies).

+1 CC to M/s.M.PRAKASH, Advocate (SR-1004[F] dated 18/01/2021)

Judgment made in
C.M.A. (MD) .No.710 of 2011
and
MP (MD) No. 1 of 2011
11.01.2021