



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

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C.M.A(MD)No.414 of 2019

and

C.M.P(MD)No.4967 of 2019

The Tamil Nadu State Transport
Corporation Limited, rep. through
its Managing Director,
Bye Pass Road,
Collectorate Post,
Dindigul.

... Appellant/Respondent

Vs

1.C.Thavamani

2.C.Somnath

3.C.Devaraj

4.A.Sevaththammal

... Respondents/Petitioners

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 13.10.2017, passed in M.C.O.P.No.326 of 2016 by the Motor Accident Claims Tribunal / District and Sessions Court, Madurai.

For Appellant : Mr.K.Sudalaiyandi

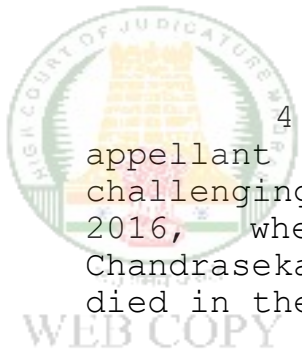
For Respondents : Mr.N.Sudhagar Nagaraj

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award dated 13.10.2017, passed in M.C.O.P.No.326 of 2016 by the Motor Accident Claims Tribunal / District and Sessions Court, Madurai.

2.Notice of motion was ordered on 24.06.2019. Interim stay was granted on condition that the admitted liability to the tune of Rs.13,00,000/- to be deposited within a period of four weeks.

3.Today, the learned counsel for the appellant / Transport Corporation submitted that the conditional order is not complied with.



4.After hearing the rival submissions, I find that the appellant / Transport Corporation has preferred this appeal challenging the award of the Tribunal passed in M.C.O.P.No.326 of 2016, wherein the legal representatives of the deceased Chandrasekaran, who was working as a driver in Government Hospital, died in the road transport accident, happened on 09.09.2015.

5.The respondents / claim petitioners have filed the above claim petition on the ground that the deceased was travelling as a passenger in a bus bearing Registration No.TN-57-N-1627, which was proceeding from Udumalaipettai to Periyakulam and the bus was stopped at Periyakulam TNSTC Junction Bus Stop and some passengers got down from the bus and when the deceased was trying to get down from the bus, the driver of the bus without receiving any whistle signal from the conductor, suddenly moved the bus and due to the sudden impact of the accident, the deceased was sustained multiple grievous injuries all over the body.

6.The appellant / Transport Corporation has filed counter stating that the deceased has attempted to get down from the bus even before it is being parked at the bus stop and thereby, he lost the balance and died due to the injuries.

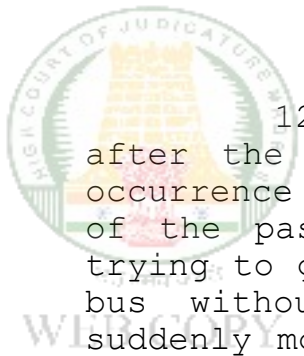
7.Before the Tribunal, on behalf of the claim petitioners, the occurrence witness viz., P.W.2 was examined and Ex.P.1, FIR was marked. On behalf of the respondent / Transport Corporation, the driver was examined as R.W.1.

8.Based upon the oral and documentary evidence adduced before the Tribunal, the Tribunal has come to the conclusion that the accident has takenplace due to the negligent driving of the driver of the bus and accordingly awarded compensation. Since the deceased was aged about 57 years at the time of the accident, the Tribunal has adopted the split up method and applied multiplier in determining the loss of income upto the age of retirement and for balance, the quantum was reduced according to the retirement benefits.

9.Aggrieved against the said award on the grounds of negligence as well as quantum, the Transport Corporation has preferred this appeal.

10.After hearing the rival submissions made by the respective counsel and perusing the records, based upon the oral evidence of P.W.2 coupled with the documentary evidence of Ex.P.1, FIR, the manner of the accident as spoken to by P.W.2, was believed by the Tribunal.

11.The learned counsel for the appellant / Transport Corporation would contend that the evidence of R.W.1 was rejected
<https://hccourtrecords.sis/hccservices/> any reason.



12.After going through Ex.P.1, FIR, which came immediately after the accident and also taking note of the evidence of the occurrence witness, viz., P.W.2, Prabhakaran, I find that after some of the passengers got down from the bus, the deceased was also trying to get down from the bus and at that time, the driver of the bus without receiving any whistle signal from the conductor, suddenly moved the bus and thereby the deceased lost balance, fell down, sustained injuries and subsequently succumbed to the injuries and hence, I find that the oral version of R.W.1, driver of the Transport Corporation bus, is only a self-serving statement to save his skin and accordingly, the finding of the Tribunal that the accident has taken place due to the rash and negligent driving of the driver of the appellant / Transport Corporation bus is well considered and well merited, which does not warrant any interference at this appellate stage and hence, the same is hereby confirmed.

13.On the point of quantum of compensation, the income of the deceased has been properly calculated and appropriate multiplier has been adopted by the Tribunal. However, the grievance of the appellant / Transport Corporation is that the amount mentioned in Ex.P.17, Salary Certificate is not duly corroborated.

14.I find that Ex.P.17, Salary Certificate of the deceased Chandrasekaran was marked through P.W.3, Mr.Sakthivel, the Superintendent of the Government Hospital, where the deceased Chandrasekaran was employed. Ex.P.6 is the Identity Card. Ex.P.7 is the bank passbook maintained by the family member of the deceased. The Service Register is marked as Ex.P.16 and therefore, the monthly income arrived at by the Tribunal and the deduction made towards personal expenses, appear to be in consonance with the ratio of the law as pronounced by the Hon'ble Supreme Court and therefore, the same are just and reasonable.

15.The learned counsel for the appellant / Transport Corporation would contend that after retirement, there must be a reduction in salary and hence, split multiplier method has to be applied. Whether the split multiplier method has to be applied or not, is no longer *res integra* in view of the decision rendered by the Hon'ble Supreme Court in **R.Valli and Others v. Tamil Nadu State Transport Corporation Ltd.** reported in **2022(1) TN MAC 289** [Civil Appeal No.1269 of 2022], wherein the Hon'ble Supreme Court has held that after the decision in **National Insurance Co. Ltd. v. Pranay Sethi and Others** reported in **2017(16) SCC 680**, the split multiplier method of calculation for the person about to be retired, will not arise and hence, the calculation of multiplier method adopted by the Tribunal is just and proper. Therefore, the contention of the appellant / Transport Corporation stands rejected.

16.The compensation awarded towards the conventional heads are more or less just and proper and therefore, the Civil Miscellaneous Appeal is liable to be dismissed.



17.In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 13.10.2017 passed in M.C.O.P.No.326 of 2016 by the Motor Accident Claims Tribunal / District and Sessions Court, Madurai is confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar(CS.I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

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

+1 CC to M/s.K. SUDALAIYANDI, Advocate (SR-20214[F] dated
21/04/2022)

JUDGMENT + DECREE MADE IN
C.M.A(MD)No.414 of 2019
21.04.2022

SA(31.05.2022) 4P 5C