



C.M.A.(MD) No.388 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.388 of 2013

and

M.P.(MD)No.1 of 2013

Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Karaikudi.

... Appellant

Vs.

1.Robert Kennadi,
2.Quine meri,
3.Lenin,
4.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Pudukottai (Given up)

... Respondents

Prayer: Civil Miscellaneous Appeal filed under 173 of the Motor Vehicle Act, 1988, against the judgment and decree dated 18.12.2007 passed in M.C.O.P.No.318 of 2003, on the file of the Motor Accidents Claims Tribunal/Additional District and Sessions Court and Special Court, Pudukottai.

For Appellant : Mr.M.Prakash

For Respondents



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for R1 & R2 : No appearance
for R4f : Given up

J U D G M E N T

The instant appeal has been filed challenging the finding on negligence and the quantum of compensation.

2. The respondents 1 to 3 had filed a claim petition stating that on 16.11.2001, while the deceased was riding his cycle, a bus belonging to the appellant/Transport Corporation came in a rash and negligent manner and dashed against the cycle from behind, as a result of which, the deceased sustained injuries and thereafter, died at the hospital on 18.11.2001, due to the injuries suffered by him.

3. The appellant/Transport Corporation filed a counter denying the averments and stated that the accident took place only due to the negligence of the deceased and that in any case the compensation claimed was excessive.



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4. The first respondent examined himself as P.W.1 and another witness, namely, Arulsamy, as P.W.2 and marked Exs.P1 and P2. The appellant/Transport Corporation neither examined any witnesses nor marked any documents.

5. The Tribunal, after considering the oral and documentary evidence, held that the accident took place only due to the negligence of the bus driver and awarded the compensation of Rs.2,09,000/- to the respondents 1 to 3.

6. The points for consideration in the instant appeal are as follows:

'a. Whether the finding on negligence by the Tribunal is justified?

b. Whether the quantum of compensation awarded by the Tribunal is just and reasonable?'

7. As regards the finding on negligence, it is seen that the claimants had examined eyewitness-P.W.2 to prove the manner of the accident and marked Ex.P1-FIR, which corroborates the version of P.W.2. The appellant/Transport Corporation had neither examined any witnesses nor marked any documents in support of their case. In the absence of any



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contrary evidence let in by the appellant/Transport Corporation, the finding on negligence by the Tribunal based on the evidence of P.W.2 and the averments made in Ex.P1-FIR cannot be faulted.

8. As regards the quantum of compensation, the only ground raised by the appellant is that the notional income fixed for the deceased, who was aged 60 years at the time of occurrence, at Rs.3,000/- p.m., is excessive. The occurrence took place in the year 2002 and according to the claimant, the deceased was working as an agricultural coolie and was earning of Rs.5,000/-. Considering the nature of the avocation and year of accident, this Court is of the view that the notional income fixed by the Tribunal and the overall compensation awarded by the Tribunal is just and reasonable.

9. The learned counsel for the appellant/Transport Corporation was unable to point out any other infirmity in the quantum of compensation awarded by the Tribunal. Therefore, this Court finds no infirmity in the award and hence, the award of the Tribunal is confirmed.



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10. The appellant/Transport Corporation shall deposit the compensation amount of Rs.2,09,000/- (Rupees Two Lakhs and Nine Thousand only) together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and costs, less the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this order.

11. On such deposit, the claimants/respondents 1 to 3 are entitled to withdraw the same, as per the apportionment fixed by the Tribunal, together with proportionate interest and costs, less the amount already withdrawn, if any, by filing appropriate applications before the Tribunal.

12. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.09.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd



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To:

1.Motor Accidents Claims Tribunal,
Additional District and Sessions Court and Special Court,
Pudukottai.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

apd

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