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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1054 of 2017

1. Rengammal

2. S.Saroja

3. M.Chellammal

4. L.Lakshmi

5. K.Kala ... Appellants/Petitioners

-vs-

The Managing Director,
The Tamilnadu Government Transport,
Tirumayam Road,
Pudukkottai District.

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and Award dated 25.11.2016, passed in M.C.O.P.No.162 of 2014, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court) Pudukkottai.

For Appellants : Mr.K.C.Maniyarasu

For Respondent : Mr.A.V.B.Krishna Kanth

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J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimants in M.C.O.P.No.162 of 2014, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court) Pudukkottai District, challenging the dismissal of the claim petition.

2. The injured claimant, namely, one Subbiaya had filed the claim petition contending that while he was riding a bicycle on 14.12.2009, a Government bus belonging to the respondent/Transport Corporation came in a rash and negligent manner and dashed against him. In the said accident, he had sustained grievous injuries and hence he prayed for a sum of Rs.7,80,000/- towards compensation.

3. Pending claim petition, he had passed away and hence, his legal heirs have been impleaded.

4. The Transport Corporation has filed a counter contending that the accident has taken place only due to the negligence on the part of the rider of the bicycle. That apart, he had dashed against the bus in a drunken mood.

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5. The Tribunal, after considering the oral and documentary evidence, has arrived at a finding that the accident has taken place only due to the rash and negligent driving on the part of the driver of the Transport Corporation bus and proceeded to dismiss the claim petition on the ground that the heads under which compensations have been prayed for are personal to the deceased claimant and therefore the legal heirs are not entitled to prosecute the claim petition. Challenging the same, the present appeal has been filed by the claimants.

6. According to the learned counsel appearing for the claimants, the deceased had incurred huge medical and transport expenses and also for extra nourishment. The Tribunal ought to have granted compensation under the above said heads and it cannot dismiss the application on the ground that the injured claimant had passed away.

7. Per contra, the learned counsel appearing for the respondent/ Transport Corporation had contended that the claimants have not established the fact that the death was due to the injuries sustained by the claimant in the accident. Therefore, for pain and suffering, mental agony, permanent

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disability and loss of income, the claimants would not be entitled to receive the compensation. The learned counsel appearing for the respondent further contended that no documents have been filed on the side of the claimants to establish the expenses incurred by the injured person in view of the accident. Hence, he prayed for dismissal of the appeal.

8. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

9. It could be seen from the claim petition, that the injured claimant had claimed a sum of Rs.7,80,000/- for the injuries sustained by him in the accident out of Rs.7,80,000/- a sum of Rs.7,00,000/- was claimed for pain and suffering, mental agony, permanent disability and loss of income and the balance amount of Rs.80,000/- has been sought for under the head of medical expenses, transport expenses and extra nourishment.

10. Admittedly, the accident has taken place on 14.12.2009 and the injured claimant had passed away on 09.08.2011 nearly after a period of two years. The deceased claimant had not been subjected to any post mortum to confirm whether the death is connected to the injuries sustained by him in the

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accident or not. Therefore, it is clear that the claimant had passed away naturally and not due to the injuries sustained by him in the accident. In such circumstances, the claim made by the injured claimant under the head of pain and suffering, mental agony, permanent disability and loss of income are personal in nature and therefore, such claim cannot be further prosecuted by the legal heirs of the deceased claimant.

11. However, the legal heirs of the deceased claimant would be entitled to get compensation for the monetary loss incurred by the family due to the injuries sustained by the original claimant. In the present case, Ex.P.1- is the FIR, Ex.P2 – is the Discharge Certificate issued by the Government Hospital, Ex.P3 – is the Scan Report, Ex.P.4- is the Death Certificate and Ex.P.5 is the Legal Heirs certificate. Not a single document has been filed to prove the medical expenses or the transport expenses. In such circumstances, the Tribunal was right in dismissing the claim petition and there are no merits in the appeal.

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12. Accordingly, this Civil Miscellaneous Appeal stands dismissed. There shall be no order as to costs.

12.07.2024

NCC : Yes/No
Index : Yes / No
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To

1. The Motor Accident Claims Tribunal,
   (Chief Judicial Magistrate Court),
   Pudukkottai District.

2. The Section Officer,
   Vernacular Records,
   Madurai Bench of Madras High Court,
   Madurai.

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