

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. NO.2675 OF 2015
& M.P.NO.1 OF 2015

The Managing Director,
Tamilnadu State Transport Corporation
[VPM Divn] Ltd.,
3/137, Salamedu,
Vazhudhareddy Post,Villupuram. .. Appellant

Versus

1.B.Sasikala
2.Minor Abinaya
3.Minor Akash
4.Renganathan
5.Pavunammal
(Minor respondents represented
by their Mother 1st Respondent) .. Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree dated 27.02.2015 made in M.C.O.P.No.2579 of 2012 on the file of the Motor Accidents Claims Tribunal [Principal District Judge], Cuddalore.

For Appellant : Mr.P.Paramasiva Doss

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the impugned award passed by the Motor Accidents Claims Tribunal [Principal District Judge], Cuddalore in M.C.O.P.No.2579 of 2012 dated 27.02.2015, by awarding a sum of Rs.8,80,000/- for the loss of life of the bread winner, aged about 38 years, of the claimants family, who worked as a Driver [Heavy Vehicles] in Jayakrishna Bus Service, Chidambaram, and earning a monthly income of Rs.12,000/-, on the ground that the Tribunal has wrongly fixed the notional income of the deceased at Rs.6,000/- per month in the absence of sufficient evidence to prove the same.

2.Heard the learned counsel for the appellant / Transport Corporation and perused the records.

3.It is not in dispute that the deceased Baskaran @ Baskar, while walking on the extreme left side of the road, on 21.08.2012 at 21.30 hours, near Karumariamankoil situated near Cuddalore OT Railway Gate, bus bearing Registration No.TN-31-N-2809 belonging to the appellant, driven by its driver in a rash and negligent manner, dashed the victim, as a result he sustained fatal injuries and was admitted in the Government Headquarters Hospital, Cuddalore. But in inspite of continued treatment, he succumbed to injuries and died on 22.08.2012.

4.The Tribunal, on going through the contents of F.I.R. / Ex.P.1 and Ex.P.2, Motor Vehicle Inspection Report, held that the accident had happened due to the rash and negligent driving of the driver of the appellant. In my considered opinion, the Tribunal has rightly come to the conclusion, that the driver of the appellant alone is responsible for the accident, due to which, the victim succumbed to the injuries, leaving behind the entire family in lurch at the age of 38.

5.The Tribunal, disbelieving the salary certificate / Ex.P.10 issued by one Kannan, Proprietor, Jayakrishna Bus Service, Chidambaram, showing that the deceased was earning Rs.12,000/- per month, fixed Rs.6,000/- as the notional monthly income of the deceased. Accordingly, the annual income was arrived at Rs.72,000/- [6000 x 12]. Out of the said amount, Rs.72,000/- ¹/₄th was deducted towards his personal expenses in the light of the ratio laid down by the Hon'ble Apex Court in the case of Sarla Verma and Others Vs. Delhi Transport Corporation and another, reported in [2009 [6] SCC 121] and applying the multiplier of 15, the Tribunal arrived at the loss of dependency at Rs.8,10,000/- [54000 x 15]. Therefore, the contentions made by the learned counsel for the appellant that the Tribunal has wrongly fixed Rs.6,000/- as the notional monthly income is liable to be rejected. Accordingly, the same is rejected, more particularly, when the deceased was working as a Driver, in Jayakrishna Bus Service, Chidambaram, and had the benefit of the salary certificate / Ex.P.10 which was marked to support his monthly income.

6.Considering the facts and circumstances of the case, this Court is not able to see any infirmity or illegality in the impugned award. Accordingly, the impugned award is confirmed in its entirety and the Civil Miscellaneous Appeal fails and is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

7. Since the appellant / Transport Corporation has deposited only a sum of Rs.25,000/-, the appellant is hereby directed to deposit the entire award amount with proportionate accrued interest to the credit of M.C.O.P.No.2579 of 2012 on the file of the Motor Accidents Claims Tribunal [Principal District Judge], Cuddalore, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimants, barring the share of the minors, to move appropriate application before the Tribunal for withdrawing their respective amount.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal
[Principal District Judge], Cuddalore.

+1cc to Mr.P.Paramasiva Doss, Advocate Sr.67045

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