

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2015

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THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A.NO.2826 OF 2015
and M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Limited,
No.3/137, Salamedu,
Vazhuthareddy,
Villupuram - 605 602. ... Appellant/Respondent

Vs.

1. Lalitha
2. Buwaneswari
3. Vijayabalan
4. Vanitha ... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act against the Judgment and Decree dated 31.10.2014 made in M.C.O.P.No.03 of 2014 on the file of the Motor Accident Claims Tribunal-cum-Subordinate Court, Chidambaram.

For Appellant : Mr.K.J.Sivakumar

For Respondents/: Mr.T.Gopinath
Caveators

JUDGMENT

The Managing Director, Tamil Nadu State Transport Corporation Villupuram Limited, being aggrieved against the impugned award passed by the learned Motor Accidents Claims Tribunal Judge-cum-Sub Judge, Chidambaram, in MCOP No.3 of 2014, dated 31.10.2014, awarding a sum of Rs.9,70,000/, as against the claim of Rs.20,00,000/-, for the loss of life of the bread-winner of the Claimants' family, has preferred this appeal challenging the quantum of compensation.

2. The claimants claimed that the deceased Krishnamoorthi was a Mason and he was earning a sum of Rs.20,000/- per month. But, according to the appellant, no

document was produced by the claimants to prove the monthly income at Rs.20,000/-, whereas, the learned Tribunal, in the absence of any testimony to prove the monthly income of the deceased, has wrongly fixed a sum of Rs.7500/- as a notional monthly income. While doing so, the Tribunal, applying the multiplier 13 and deducting 1/3 of the notional monthly income, has arrived at a compensation of Rs.7,80,000/-. With regard to conventional heads, a sum of Rs.1,00,000/- towards loss of consortium to the first claimant and for love and affection Rs.25,000/- each to the claimants 2 to 4, Rs.5,000/- towards transportation expenses and Rs.10,000/- towards funeral expenses have been awarded. Therefore, the appellant claimed that awarding Rs.9,70,000/- for the loss of life of the deceased, who aged about 50 years, is on the higher side and therefore, the impugned award passed by the learned Tribunal Judge is required to be interfered with by this Court.

3. While the deceased was proceeding in his bi-cycle near Pickup Hotel in Thulasenthiram village in Sirkazhi to Chidambaram Main Road on 15.12.2013 at about 10.30 a.m., the offending vehicle belonging to the appellant Transport Corporation bearing registration No.TN 32 N 3459 driven by its Driver came behind the vehicle of the deceased in a rash and negligent manner and dashed against him, due to which, he fell down on the road and the left front tyre of bus rode over him. As a result of the accident, the said Krishnamoorthi died on the spot leaving behind him, his wife - a poor widow, one unmarried daughter and one son without any dependents and one married daughter.

4. Immediately after the accident, First Information Report was registered on the same day, i.e., on 15.12.2013, which was marked as Ex.P.1. The body was sent for post-mortem. As per the Post-Mortem Report, Ex.P.3, the Doctors gave opinion that the deceased died out of multiple injuries due to loss of blood. In view of the sudden death of the bread-winner of the family, the claimants filed the claim petition on 26.12.2013 claiming compensation of Rs.20,00,000/- with interest at the rate of 12% from the date of accident till the date of realization.

5. The appellant herein/respondent in the claim petition filed a detailed counter-affidavit pleading no negligence on their part. In the counter-affidavit, the appellant contended that the deceased alone invited the accident, since he suddenly and carelessly crossed the road, due to which, the foot board of the bus slightly touched him and no accident took place, as claimed by the claimants. Therefore, no negligence can be attributed on the Driver of the bus.

6. The Tribunal, considering the evidence, both oral and documentary produced by both sides, disbelieved the contentions

of the appellant Corporation and observed that the Driver of the offending vehicle was issued with a charge memo by the Transport corporation and finally he was found guilty by the disciplinary authority in the departmental enquiry for having driven the vehicle in a rash and negligent manner causing the accident and thereby negated the contentions of the Transport Corporation that the deceased was responsible for the accident.

7. While arguing on the quantum of the award passed by the learned Tribunal, it has been contended by the learned counsel for the appellant that when the claimants have specific case that the deceased was working as a Mason and he was earning Rs.20,000/- per month, they have not produced any documents to prove such claim and the Tribunal, in the absence of any sufficient evidence to prove the employment and solely accepting the I.D. Card of the deceased showing that he was working as Mason at the time of accident, fixed the monthly income at Rs.7500/-. Therefore, I am of the considered opinion that there is no error committed by the learned Tribunal in fixing Rs.7500/- as notional monthly income.

8. Further, the learned Tribunal deducted 1/3 of the notional monthly income towards personal expenses as per the judgment of the Apex Court in Sarla Verma's case Sarla Verma (Smt) Others V. Delhi Transport Corporation and Another, reported in (2009) 6 SCC 121.

9. In the said judgment, it is held that for the persons in the age group of 46-50 years, 13 should be the right multiplier. After fixing the multiplier properly, learned Tribunal has awarded reasonable compensation towards the loss of dependents. Further, as rightly contended by the learned counsel for the claimants, as per the ratio laid down by the Apex Court in Rajesh and Others V. Rajbir Singh and Others reported in 2013 (3) CTC 883, a sum of Rs.1,00,000/- is fixed towards loss of consortium and with regard to compensation towards love and affection, again the Tribunal fixed Rs.25,000/- each to the daughters and the son. Therefore, this Court is not able to find any merit on the submissions of the learned counsel for the appellant that the impugned award has to be interfered with.

10. In the result the appeal stands dismissed and the Judgment and Decree passed by the Motor Accident Claims Tribunal-cum-Sub Judge, Chidambaram, in M.C.O.P.No.3 of 2014 dated 31.10.2014 is confirmed.

11. The appellant is hereby directed to deposit the entire balance amount, except the statutory deposit of Rs.25,000/- and any other deposits made, along with at the rate of 7.5% p.a. within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, it is open

to the claimants to withdraw the amount so deposited along with interest. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

The Motor Accident Claims Tribunal-cum-
Sub Judge, Chidambaram.

1 cc to Mr.K.J. Sivakumar, Advocate, Sr. 69471

1 cc to Mr.T. Gobinath, Advocate, Sr. 69390

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