

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.1091 of 2016

and

C.M.P.No.8090 of 2016

The Executive Director,
State Express Transport Corporation
of Tamil Nadu Ltd.,
Thiruvalluvar House,
Pallavan Salai,
Chennai-600 022

... Appellant

vs.

1.Seethalakshmi
2.Manjula
3.Vimal
4.Giriya

.... Respondents

Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the judgement and decree, dated 19.03.2014, made in M.C.O.P.No.237 of 2013, on the file of the Motor Accident Claims Tribunal, The Principal District Judge at Puducherry.

For appellant : Mr.K.J.Sivakumar

JUDGMENT

Questioning the quantum of compensation awarded by the Motor Accident Claims Tribunal, the Principal District Judge at Puducherry, by judgement and decree dated 19.3.2014, made in M.C.O.P.No.237 of 2013, the present appeal has been filed by the State Transport Corporation.

2. Respondents are the claimants before the Tribunal. The first respondent is the wife of the deceased, second and fourth respondents are the daughters and the third respondent is the son of the deceased.

3. It is the case of the claimants before the Tribunal that on 19.11.2012 at about 8.15 hours, when the deceased, Subramani, was riding his motor cycle, bearing Registration No.PY-01-AN-6407, on Tindivanam - Villupuram Main Road (N.H.), from North to South, near Iyyanarkoil, the bus belonging to the Tamil Nadu State Corporation, bearing Registration No.TN-01-N-7822, came in a rash and negligent manner in the same direction and hit against the motorcycle of the deceased and dragged him to nearly 100 feet and caused his death. Hence, the claimants made a claim before the Tribunal as against the Transport Corporation, claiming a sum of Rs.40,00,000/- as compensation.

4. The Tribunal based on the oral evidence of the witnesses, and the documentary evidence, granted the following amounts as compensation with interest at 7.5% per annum:-

Sl.No	Head	Amount granted by the Tribunal
1	Loss of dependency	Rs. 5,85,000
2	Loss of Consortium	Rs. 25,000/-
3	Love and affection	Rs. 30,000/-
4	Funeral Expenses	Rs. 10,000/-
5	Loss of Estate	Rs. 7,500/-
	Total	Rs. 6,57,500/-

5. Aggrieved over the said award, the Transport Corporation has come forward with this Civil Miscellaneous Appeal.

6. The only grievance of the appellant is that the Tribunal has erroneously fixed the monthly income of the deceased at Rs.5,000/- and the Tribunal has accepted the claim without any proof with regard to wages.

7. The Hon'ble Apex Court Judgement in the case of "Syed Sadiq and others versus Divisional Manager, United India Insurance Co.Ltd." reported in 2014 ACJ 627, in respect of a vegetable vendor, who sustained injuries in an accident which occurred in 2008, determined Rs.6,500/- as the notional monthly income. As far as this case is concerned, the accident had occurred on 19.11.2012. Hence, fixation of a sum of Rs.5,000/- per month by the Tribunal is justified.

8. Further, taking note of the fact that the wife and three children are the claimants and when the Tribunal has not granted any amount towards future prospects in terms of the

judgement of the Hon'ble Supreme Court in Rajesh and others vs. Rajbir Singh and others (reported in 2013(2) TNMAC 55 (SC)), as per which, 50% of the income of the deceased has to be added towards future prospects, this Court is of the view that the compensation awarded by the Tribunal for the loss of life of a Crane Contractor, cannot be said to be excessive, more particularly, there was an eye witness P.W.2, who had spoken about the incident and when a very meagre amount was awarded for loss of consortium and for loss of love and affection. Hence, this Court is not inclined to interfere with the compensation awarded by the Tribunal.

9. Hence, finding no merit, this Civil Miscellaneous Appeal is dismissed by confirming the award of the Tribunal so also the rate of interest granted by the Tribunal. No costs. Connected miscellaneous petition is closed. Connected miscellaneous petition is dismissed.

10. The Appellant Transport Corporation is directed to deposit the entire award amount together with proportionate costs and interest from the date of claim petition to the credit of M.C.O.P.No.237 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Puducherry, within a period of six weeks from the date of receipt of a copy of this order and on such deposit being made, the respondents/claimants are entitled to make necessary application to withdraw the same as apportioned by the Tribunal.

-s/d-
Assistant Registrar (CSIV)

True Copy

Sub-Assistant Registrar

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To

1.The Motor Accident Claims Tribunal
Principal District Judge, Puducherry.

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