

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM

THE HON'BLE Mr.JUSTICE S.VAIDYANATHAN

C.M.A.No.1099 of 2016
and
C.M.P.No.8199 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation, (Kumbakonam) Limited,
Trichy Region, Periya Melakuparai,
Trichy-1. Appellant/2nd Respondent

Vs.

1.Pushpa Valli
W/o.Palanivelu
2.Ramajayam
3.Lakshmi
4.Thiyagarajan
5.Muthammal
6.Athiyaman
7.Sudha
8.Bharathi Axa General Insurance
Company Limited,
Office at No.965,
2nd Floor, Avinasi Road,
Coimbatore-641 037. Respondents 1to5/Petitioners
... Respondents 1 & 3 & 4/
Respondents 6 to 8

Civil Miscellaneous Appeal preferred under Section 173 of
the Motor Vehicles Act, 1988 against the order and decreetal
order dated 25.09.2012 made in M.C.O.P.No.1441 of 2009 on the
file of the Motor Accident Claims Tribunal, Subordinate Judge,
Tiruppur.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Transport Corporation has preferred this Civil
Miscellaneous Appeal challenging the order and decreetal order
dated 25.09.2012 passed in M.C.O.P.No.1441 of 2009 on the file
of the Motor Accident Claims Tribunal, Subordinate Judge,
Tiruppur.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. For the death of one Palanivelu, who was aged 45 years and was an agriculturist, his wife, two daughters and son and mother, filed a claim petition before the Tribunal claiming a sum of Rs.20,90,000/- as compensation. The accident in question took place on 04.10.2009. The Tribunal, taking note of the factual aspects, fixed the monthly income of the deceased at Rs.6,000/- and by adopting multiplier method, awarded compensation to the tune of Rs.7,02,000/- towards loss of income. Besides awarding a sum of Rs.50,000/- towards loss of consortium, a sum of Rs.10,000/- towards funeral expenses and a sum of Rs.10,000/- towards loss of estate, totalling a sum of Rs.7,72,000/- together with interest at 7.5% p.a. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

4. According to the learned counsel for the appellant/Transport Corporation, the Tribunal failed to take note of the evidence of P.W.2-who is the eye witness to the accident and in his cross examination, he has stated that if the driver of the car had driven cautiously, he could have seen the bus which turned right side, from some distance and slowed down the car to avert the accident. However, a cursory glance of the award of the Tribunal would make it clear that the accident was caused by the appellant/Transport Corporation bus, due to which the deceased sustained grievous injuries and died on 04.10.2009. The contention of the learned counsel for the appellant is that in the absence of proof of income, the Tribunal has fixed the monthly income of the deceased at Rs.6,000/-, though the claimants claimed a sum of Rs.8,000/-, which is on the higher side. The Honourable Apex Court, in the judgment rendered in Syed Sadiq V. Divisional Manager, United India Insurance Co. Ltd reported in 2014 (1) TN MAC 459 (SC), in respect of a vegetable vendor, who sustained injuries in an accident which occurred in 2008, determined Rs.6500/- as the monthly income. Taking note of the Syed's case referred to above, I am of the view that the income determined by the Tribunal is far less and the Tribunal while calculating of loss of dependency has rightly adopted the multiplier, which cannot be found fault with and the same is confirmed. Hence, taking note of the totality of the circumstances, I find no reason to interfere with the award of the Tribunal.

5. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the Tribunal is also confirmed. The appellant/Transport

Corporation Company is directed to deposit the entire award amount together with interest to the credit of M.C.O.P.No.1441 of 2009 on the file of the Motor Accident Claims Tribunal [Subordinate Court], Tiruppur, if not already deposited, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the claimants are entitled to withdraw their respective shares as apportioned by the Tribunal on filing necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Tiruppur.

+lcc to Mr.D.Venkatachalam, Advocate, S.R.No.29302

C.M.A.No.1099 of 2016
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SCD(CO)
CA(20/07/2016)

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