

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No. 1102 of 2016
and
C.M.P.No.8201 of 2016

The Managing Director
State Express Transport Corporation Ltd.,
Thiruvalluvar Illam, Pallavan Salai,
Chennai-600 002 Appellant/Respondent No.2

vs.

1.Dhanalakshmi
2.Minor Sangeetha
3.Minor Anandhi
Minor rep.by their next
friend and mother Dhanalakshmi
4.Rayappan
5.ValliammalRespondants 1 to 5/Petitioner
6.N.Gunasekaran6th Respondent/Respondent No.1

Civil Miscellaneous Appeal is filed under Section 173 of
Motor Vehicles Act, 1988 against the Judgment and decree dated
28.3.2012 passed in M.C.O.P.No.1027 of 2009 on the file of the
Motor Accidents Claims Tribunal, Additional Sub Court, Tiruppur.

For Appellant : Mr. K.J.Sivakumar

JUDGMENT

The Transport Corporation has preferred this Civil
Miscellaneous Appeal challenging the Judgment and decree, dated
28.3.2009, passed in M.C.O.P.No.1027 of 2009, on the file of
the Motor Accidents Claims Tribunal, Additional Sub Court,
Tiruppur.

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

3. The claimants, who are the wife, daughters and parents
of the deceased R.Murugan, aged 28 years, claiming to be a
Supervisor, who met with a fatal accident on 12.05.2009,

approached the Tribunal, claiming compensation to the tune of Rs.10,00,000/- on the basis of the monthly income of the deceased at Rs.9,000/- per month. The Tribunal, taking note of the factual aspects, fixed the monthly income at Rs.5,000/- per month and by adopting multiplier method and after deducting 1/5th towards personal expenses, awarded a sum of Rs.8,64,000/- towards loss of dependency, besides awarding a sum of Rs.15,000/- towards loss of love and affection and a sum of Rs.10,000/- towards funeral expenses and a sum of Rs.5000/- towards loss of asset, totalling a sum of Rs.8,94,000/- together with interest at 7.5% p.a. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

4. The grievance of the appellant is that the Tribunal has erroneously fixed the monthly income at Rs.5,000/- and the Tribunal has accepted the claim without any proof with regard to income. It is also the grievance of the appellant that the Tribunal erred in selecting the multiplier. It is stated that the proper multiplier for the age group between 26 and 30 would be 17, but the tribunal has erroneously selected the multiplier of 18.

5. As far as the contention that the income fixed by the Tribunal is on the higher side is concerned, the Hon'ble Apex Court in the Judgment in "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.6500/- as the monthly income. As far as this case is concerned, the accident had occurred on 12.5.2009; the wife, mother and two minor children are the claimants and that only after deducting 1/5th towards personal expenses, the Tribunal has fixed the monthly income of the deceased at Rs.5,000/- per month, which cannot be said to be on the higher side. Further, in the absence of any evidence that the deceased also was at fault, this Court is not inclined to interfere with the compensation awarded towards loss of dependency.

6. The next contention raised by the learned counsel for the appellant is that the deceased was 28 years at the time of accident and as such 17 multiplier ought to have been applied, in view of the tabular statement at paragraph No.40 of the Judgment of the Hon'ble Apex Court reported in 2009(6) SCC 121 (Sarla Verma (Smt.) and Others vs. Delhi Transport Corporation and another), but, the Tribunal has taken 18 as multiplier for arriving at the compensation. Therefore, according to the learned counsel for the appellant, the multiplier adopted by the Tribunal is on the higher side.

7. Taking note of the fact that the wife, two minor children and parents are the claimants and that the Tribunal has not granted any amount towards future prospects, since as per the dictum laid down by the Honourable Supreme Court in Rajesh and others vs. Rajbir Singh and others (reported in 2013(2) TNMAC 55 (SC), 50% of the income of the deceased has to be added towards future prospects, and since the Tribunal has not awarded any amount towards consortium, this Court is of the view that the multiplied of 18 adopted by the Tribunal, cannot be said to be excessive. Hence, this Court is not inclined to interfere with the compensation awarded by the Tribunal.

8. 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.

9. 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.1027 of 2009 on the file of the Motor Accidents Claims Tribunal, Additional Sub Court, Tiruppur, if not deposited already, within a period of six weeks from the date of receipt of a copy of this order and on such deposit being made, the first respondent/first claimant, respondents 4 and 5/claimants 4 and 5 are entitled to make necessary applications to withdraw the same as apportioned by the Tribunal. As far as the respective shares of the minor claimants, namely, respondents 2 and 3/claimants 2 and 3 are concerned, the same shall be invested in a Nationalized Bank under fixed deposit scheme, initially for a period of one year, which shall be renewable thereafter from time to time till the minors attain majority. The first respondent / claimant is permitted to withdraw the interest accrued therein, once in three months. It is made clear that the guidelines given by this Court in C.M.A.No.428 of 2016, vide judgment dated 11.03.2016, should be strictly followed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
Additional Sub Court, Tiruppur.

C.M.A.No.1102 of 2016

nm co, kra 20.06.2016