

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.1103 of 2016
& C.M.P.Nos.8202 & 8203 of 2016

The Managing Director
State Express Transport Corporation Ltd.,
Tiruvalluvar House,
Pallavan Salai,
Chennai 600 002.

.. Appellant

Vs.

1.Padmavathi
2.Mariammal
3.Vijayarani
4.Suresh

.. Respondents

Prayer: Civil Miscellaneous Appeals as against the Judgment and decree dated 13.03.2012 made in M.C.O.P.No.127 of 2011 on the file of Motor Accidents Claims Tribunal, Principal Subordinate Judge, Mayiladuthurai.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the judgment and decree dated 13.03.2012 made in M.C.O.P. No. 127 of 2011 on the file of Motor Accidents Claims Tribunal, Principal Subordinate Judge, Mayiladuthurai.

2. It is a case of fatal accident. On 10.02.2011, when the deceased Venugopal was riding his motorcycle, the bus belonging to the appellant Corporation came in a rash and negligent manner and dashed against him. The said Venugopal sustained grievous injuries and died on the spot. His wife, two daughters and one son are the claimants and they filed a claim petition before the Tribunal seeking compensation of a sum of Rs.15,00,000/-.

3. 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:-

<i>Sl.No.</i>	<i>Head</i>	<i>Amount granted by the Tribunal</i>
1	Loss of dependency	Rs.6,24,000/-
2	Loss of consortium	Rs. 25,000/-
3	Loss of love and affection to daughters	Rs. 10,000/-
4	Loss of love and affection to Son	Rs. 10,000/-
5	Funeral expenses	Rs. 5,000/-

<i>Sl.No.</i>	<i>Head</i>	<i>Amount granted by the Tribunal</i>
	Total	Rs. 6,74,000/-

4. The learned counsel for the appellant would submit that awarding a compensation of a sum of Rs.6,74,000/- towards the death of a 50 year old man who was working only as a salesman in a chicken shop, in favour of his wife and children is highly excessive and unsustainable. The Tribunal has erred in taking the income of the deceased at Rs.6,000/-, in the absence of any proof. Further, the Tribunal has not considered that the claimants are all major and they cannot be considered as dependents of the deceased while awarding compensation under the head loss of consortium. Based on these, the learned counsel for the appellant has sought for allowing of the Civil Miscellaneous Appeal.

5. This Court heard the submissions made by the learned counsel for the appellant and perused the materials available on record.

6. The Tribunal, taking note of the age of the deceased as 50 years has fixed the income of the deceased at Rs.6,000/- per month and after deducting 1/3rd towards his personal expenses, fixed his monthly income at

Rs.4,000/- per month. It is pertinent to point out that 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, since the accident in this case had occurred in the year 2011, I am of the view that the Tribunal has not committed any error in taking the monthly income of the deceased as Rs.6,000/-.

7. As far as the contention of the learned counsel for the appellant that the amount granted under the head loss of consortium is excessive, this court is of the view that the Tribunal has made 1/3rd deduction towards personal expenses without taking into account the number of dependents, which should be only 1/4th. As far as the contention that the claimants are major and hence, they cannot be considered as dependents of the deceased is concerned, a glance of the compensation awarded by the Tribunal reveals that no amount had been granted under the head 'future prospects'. Hence, I find that the quantum of compensation determined by the Tribunal need not be interfered with.

8. 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 MCOP No.127 of 2011 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge), Mayiladuthurai, if not already deposited, within a period of six 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. There will be no order as to costs in this appeal. Consequently, connected miscellaneous petitions are closed.

9. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

29.04.2016

To

1. The Motor Accidents Claims Tribunal
Principal Subordinate Judge, Mayiladuthurai.
smi

S.VAIDYANATHAN, J.

smi

Judgment in
C.M.A. No.1103 of 2016

29.04.2016