

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1104 of 2016

and

C.M.P. No. 8205 of 2016

The Managing Director,  
Tamil Nadu State Transport  
Corporation Limited,  
Kumbakonam

... Appellant/2<sup>nd</sup> Respondent.

Vs.

1. Santhanavel
2. Kulandhaivelu

... Respondents/Petitioner &  
1<sup>st</sup> Respondent.

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 31.07.2013 made in M.C.O.P No.56 of 2012 on the file of the Motor Accident Claims Tribunal, District Court, Nagapattinam.

For Appellant : Mr. D.Venkatachalam  
For Respondent :

J U D G M E N T

The Transport Corporation has come up with this appeal challenging the negligence and quantum of compensation awarded by the Tribunal.

2. On 02.03.2008, while the deceased Marimuthu was travelling as a passenger in the appellant Transport Corporation bus bearing Registration No.TN 49 N 0914, before she could get down from the bus at Pradhabaramapuram bus stop, the driver moved the bus in a rash and negligent manner and so she fell down and sustained crush injuries and died on the way to the hospital. The Claim Petition has been filed by her husband, before the Tribunal, seeking a sum of Rs.10,00,000/- as compensation. After analyzing the available oral and documentary evidences, the Tribunal awarded a sum of Rs.6,34,000/- as compensation, under the following heads:

| Sl. No | Heads                        | Amount         |
|--------|------------------------------|----------------|
| 1      | Loss of Dependency           | Rs.6,12,000.00 |
| 2      | Loss of consortium           | Rs. 10,000.00  |
| 3      | Transport & Funeral Expenses | Rs. 12,000.00  |
|        | Total                        | Rs.6,34,000.00 |

3. Learned counsel appearing for the appellant/Transport Corporation, challenging negligence, mainly contended that the deceased got down from the moving bus, due to which the deceased sustained fatal injuries and hence the contributory negligence should have been fixed on the deceased. He further contended that the Tribunal ought to have considered the evidence of the driver of the appellant Transport Corporation bus. In the absence of documentary evidences regarding age and income, the age of the deceased has been wrongly fixed as 28. Hence, the quantum of compensation awarded by the Tribunal is also on the higher side and challenging the same, this appeal has been filed.

4. As per the depositions of the witnesses, the evidences and documents produced before the Tribunal, it has been found that the driver of the bus, in a rash and negligent manner had moved the bus, without noticing the deceased getting down, due to which the deceased lost her balance and fell down from the bus. Although it is stated before the Tribunal that the deceased was an Agricultural Coolie, in the absence of any proof, her income has been fixed only at a minimum of Rs.4500/- per month and deducting 1/3<sup>rd</sup> towards personal expenses, the loss of income has been calculated at the rate of Rs.3000/- per month. The Tribunal, further considering the young age of the deceased and that of the dependent husband, has granted a fair and reasonable compensation. On the above grounds, this Appeal is liable to be dismissed.

5. This Court considered the submissions made by the learned counsel for the appellant and perused the materials available on record. Since the claimant is not going to be prejudiced with the result of this Appeal, the main case itself is disposed of at the stage of admission itself, without serving notice to them.

6. Perusal of the records clearly show that after investigation, the Tribunal has come to the conclusion that the negligence is only on the part of driver of the Transport Corporation bus and not on the deceased. While the Tribunal has strictly followed the decisions of the Hon'ble Apex Court and the guidelines of this Court, in adopting the multiplier, this Court is not inclined to interfere with the award granted by the

Tribunal. We do not find any error on the part of the Tribunal in the fixation of salary of the deceased and the compensation awarded towards "Loss of Consortium". Also, we find that the compensation awarded under the other heads are reasonable and they do not require any interference.

7. In fine, this Court is of the considered opinion that there is no necessity to interfere with the order passed by the Tribunal. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. The appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest, less the amount already deposited, to the credit of M.C.O.P.No.56 of 2012 on the file of the Motor Accidents Claims Tribunal, District Court, Nagapattinam within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimants in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, the C.M.P. is closed.  
avr

-s/d-

Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To :

The District Court  
Motor Accidents Claims Tribunal,  
Nagapattinam.

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