

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

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THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.1107 of 2016
& connected M.Ps.

The Managing Director
Tamil Nadu State Transport Corporation
(Kottam -1) Limited,
Railway Station Road,
Kumbakonam.

..Appellant/Respondent

Vs.

1.Mrs.Latha
2.Minor Keerthana
3.Minor Dharshana
(Minors 2 and 3 rep. by their
mother and guardian 1st petitioner)

.. Respondents

Prayer: Civil Miscellaneous Appeal has been filed as against the Judgment and decree dated 12.07.2012 made in M.C.O.P.No.25 of 2011 on the file of Motor Accidents Claims Tribunal, District and Sessions Court, Thiruvarur.

For Appellant : Mr.V.S.Vijay Vellappan

JUDGMENT

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the judgment and decree 12.07.2012 made in M.C.O.P.No.25 of 2011 on the file of Motor Accidents Claims Tribunal, District and Sessions Court, Thiruvarur.

2. It is a case of fatal accident. On 29.08.2010, at about 2.45 p.m., when the deceased Senthamizhan was driving his motorcycle bearing registration No.TN-09-AD-7720, on Tiruvarur-Mayiladuthurai Road, a bus belonging to the appellant Transport Corporation bearing Registration No.TN 49 N 1673 came in a rash and negligent manner, hit against the deceased, due to which, the deceased sustained injuries all over the body and died on the spot. The claimants who are the wife, minor daughters of the deceased approached the Tribunal, claiming compensation to the tune 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 Income	Rs.5,76,000/-

<i>Sl.No.</i>	<i>Head</i>	<i>Amount granted by the Tribunal</i>
2	Loss of consortium	Rs. 50,000/-
3	Funeral expenses	Rs. 3,000/-
4	Loss of Love and Affection	Rs. 5,000/-
5	Transport charges	Rs. 2,000/-
	Total	Rs. 6,36,000/-

Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

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

5. Learned counsel for the appellant submits that he is questioning the quantum aspect in this appeal. It is further submitted that the Tribunal had erroneously fixed the salary and the amount fixed by the Tribunal is also on the higher side. It is his further submission that the multiplier method adopted is also not correct. Hence, prays for modification of the award amount.

6. A loadman aged 35 years, met with an accident on 29.08.2010 and his wife, minor daughters are the claimants of the deceased. They claimed compensation of a sum of Rs.15 lakhs. The Tribunal, after taking note of the evidences placed before it, had fixed the monthly income of the deceased at

Rs.3,000/-per month and after deducting 1/4th towards personal expenses, granted a sum of Rs.5,76,000/- towards loss of income. This Court is unable to accept the contention raised by the learned counsel for the appellant in view of the judgments of the Honourable Apex Court, in ***Syed Sadiq V. Divisional Manager, United India Insurance Co. Ltd*** reported in ***2014 (1) TN MAC 459 (SC)***, wherein, in respect of a vegetable vendor, who sustained injuries in an accident which occurred in 2008, Rs.6,500/- was determined as the monthly income. Taking note of ***Syed's*** case referred to above, since the accident in this case had occurred in the year 2010, in the absence of any proof, I am of the view that the Tribunal has not committed any error in taking the monthly income of the deceased.

7. Further, a glance of the compensation awarded by the Tribunal reveals that no amount had been granted under the head future prospects, funeral expenses and the amount granted under the head love and affection for the two female children is also very meagre. Hence, I find that the quantum of compensation determined by the Tribunal need not be interfered with.

8. In view of the above, this Court finds no reason to interfere with the award of the Tribunal and hence the appeal is dismissed. No costs. Connected miscellaneous petition is closed.

9. The Appellant Transport Corporation is directed to deposit the entire award amount together with accrued interest @ 7.5% per annum from the date of claim petition, to the credit of M.C.O.P.No.25 of 2011 on the file of the Motor Accidents Claims Tribunal, District and Sessions Judge, Thiruvarur, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the first respondent / first claimant is entitled to make necessary application to withdraw the same as apportioned by the Tribunal. As far as the respective shares of the minors are concerned, the same shall be invested in a Nationalized Bank under fixed deposit scheme, initially for a period of one year and thereafter, renewed periodically. The 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 11.03.2014 should be strictly followed.

29.04.2016

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To,

1. The Motor Accidents Claims Tribunal
District and Sessions Court, Thiruvarur.

S.VAIDYANATHAN, J.

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Judgment in
C.M.A. No.1107 of 2016

29.04.2016