

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.1122 of 2016

&

C.M.P.No.8533 of 2016

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Salem Division,
Radhakrishna Road,
Salem 636 007.

... Appellant/Respondent

Vs.

1.Pushpa
2.Janaki
3.Saroja
4.Kumaresan
5.Minor Santhi
(Minor rep.by mother
Pushpa/first respondent)

6.Sappayee

... Respondents/Claimants

Prayer: Civil Miscellaneous Appeal as against the Judgment and decree dated 22.07.2002 made in M.C.O.P.No.228 of 2000 on the file of Motor Accidents Claims Tribunal, Additional District Judge-cum-Fast Track Court-1, Salem.

For Appellant : Mr.P.Jagadeeswaran

JUDGMENT

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the judgment and decree dated 22.07.2002 made in M.C.O.P.No.228 of 2000, on the file of Motor Accidents Claims Tribunal, Additional District Judge-cum-Fast Track Court-1, Salem.

2. It is a case of fatal accident. On 29.12.1999, when the deceased Bhuvaneshwaran was standing in the bus stop near Marulavampalyam bus stop in Salem-Mallasumudram main road at that time, a bus belonging to the appellant Corporation came in a rash and negligent manner and dashed against him. The said Bhuvaneshwaran sustained grievous injuries and was admitted in Mohankumaramangalam hospital initially, however, despite treatment, he died. The wife, mother and children are the claimants and they filed a claim petition before the Tribunal seeking compensation of a sum of Rs.5,00,000/-.

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:-

Sl.No.	Head	Amount granted by the Tribunal
1	Loss of dependency	Rs.1,80,000/-
2	Loss of consortium	Rs. 2,000/-
3	Loss of love and affection	Rs. 2,000/-
	Total	Rs.1,89,500/-

4. The learned counsel for the appellant would submit that the Tribunal has erred in adopting the multiplier method and the percentage of interest granted is also on the higher side. Further, the Tribunal has not considered that the claimants 1 to 4 and 6 are all major claimants and they cannot be considered as dependents of the deceased while awarding compensation under the head loss of dependency. 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 40 years has fixed the income of the deceased at Rs.1,500/- per month and after deducting 1/3rd towards his personal expenses had granted compensation towards loss of dependency at Rs.1,80,000/- which in my opinion is very meager. As far as the contention that the claimants are major and hence, they cannot be considered as dependents of the deceased is concerned, a reading of the compensation awarded by the Tribunal reveals that no amount had been granted under the head future prospects and the amount granted under other conventional heads are also

very low. Hence, I find that the quantum of compensation determined by the Tribunal need not be interfered with.

7. 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.228 of 2000 on the file of the Motor Accident Claims Tribunal, Additional District Judge-cum-Fast Track Court-1, Salem, if not already deposited, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants 1 to 4 & 6 are entitled to withdraw their respective shares as apportioned by the Tribunal on filing necessary applications before the Tribunal. As far as the respective share of the minor is 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 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. There will be no order as to costs in this appeal. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

smi

To

The Motor Accidents Claims Tribunal
Additional District Judge-cum-Fast Track Court-1,
Salem.

+2cc's to Dr.Fr.A.Xavier Arulraj, Advocate, S.R.No.9055

C.M.A. No.1122 of 2016

MSM(CO)
CA(27/09/2016)