

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.1132 of 2016
& Connected M.Ps.

Managing Director
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Villupuram 605 602.

.. Appellant/Respondent

Vs.

1. J.Mahalakshmi
2. Minor Jaya Suriyass
3. Minor Jaya Prakash
4. Mangavaram

.. Respondents/petitioners 1-4

Prayer: Civil Miscellaneous Appeal as against the Judgment and decree dated 24.02.2014 made in M.C.O.P. No. 58 of 2013 on the file of Motor Accidents Claims Tribunal, Special District Judge, Villupuram.

For Appellant :: Mr.K.J.Sivakumar

J U D G M E N T

The Transport Corporation has come forward by filing this Civil Miscellaneous Appeal challenging the Judgment and decree dated 24.02.2014

made in M.C.O.P. No. 58 of 2013 on the file of Motor Accidents Claims Tribunal, Special District Judge, Villupuram.

2. In a fatal accident that took place on 06.06.2010 at 2.00p.m., when the deceased Jayabalan was driving his Motorcycle bearing Registration No.PY-01-V-4793 in Valavanur-Villupuram Road at Kolianur, near Om Sakthi Samrat Nagar, along with one Ayyappan, a bus bearing Registration No.TN-32-N-2763 driven by its driver came in a rash and negligent manner, hit against the claimant's motorcycle, due to which, the said Jayabalan died on the spot. The legal heirs of the deceased wife, daughter, son and mother being the dependants of the deceased approached the Tribunal claiming compensation to the tune of Rs.10,00,000/-. The Tribunal, based on the oral and documentary evidence, awarded compensation to the tune of Rs.7,70,000/-. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

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

4. The Transport Corporation has not disputed the accident. Learned counsel for the appellant contended that as per Sarala Varma's case

the correct multiplier should be 17 for the age between 26 to 30. In this case, the deceased, driver was aged 29 years and the multiplier adopted is 18 which is not correct. It is further contented that when no proof with regard to income was produced before the Tribunal, the income fixed at Rs.5,000/- in the case of a driver is erroneous.

5. It is pertinent to note that the deceased was a driver by profession. He is the sole bread winner of the family. Due to his sudden demise, his family is languishing. The Tribunal, after taking note of the exhibits produced before it, had arrived at the total compensation to be awarded to the claimants who are wife, daughter, son and mother of the deceased. The deceased died at a young age of 29 years. No amount had been awarded under the head future prospects. As per the decision reported in 2013 (2) TNMAC 55, 50 % of the income of the deceased has to be taken for awarding future prospects, which has not been done in this case.

6. 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 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 as Rs.5000/-. Since the monthly income is taken as Rs.5,000/- instead of Rs.6,500/-, if correct multiplier of 17 is applied, there would not be much variation in the amounts. Further, a glance of the award would reveal that the compensation granted under all other heads cannot be said to be excessive. Hence, I find no reason to interfere with the award of the Tribunal.

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.58 of 2014 on the file of the Motor Accident Claims Tribunal (Special District Judge), Villupuram, if not already deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the first & fourth respondents/claimants are entitled to make necessary application to withdraw their respective shares 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 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.

29.04.2016

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To

1. The Motor Accidents Claims Tribunal,
Special District Judge, Villupuram.

S. VAIDYANATHAN, J.

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