

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.1134 of 2016
& Connected M.Ps.

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Railway Station Road,
Kumbakonam Town.

..Appellant

Vs.

1.Chandra
2.Vigenesh
3.Minor Vidhya
4.Minor Vinoth
(Minors rep. by mother/1st
respondent)

..Respondents

Prayer: Civil Miscellaneous Appeals as against the Judgment and
decree dated 04.06.2012 made in M.C.O.P.No.91 of 2010 on the file of Motor
Accidents Claims Tribunal, Subordinate Judge, Mannarkudi.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the judgment and decree dated 04.06.2012, made in M.C.O.P.No.91 of 2010 on the file of Motor Accidents Claims Tribunal, Subordinate Judge, Mannarkudi.

2. It is a case of fatal accident. On 14.11.2009, at about 12.30p.m. while the deceased Nandasamy was walking along the road in Vaduvor main road in Neduvakkottai, a bus bearing registration No.TN-49-N-1924 driven by its driver in a rash and negligent manner dashed against him and thereby, he scummed to grievous injuries and thereafter died in the hospital. His wife, two sons and one daughter are the claimants and they filed a claim petition before the Tribunal seeking compensation of a sum of Rs.10,00,000/-.

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.6,72,000/-
2	Loss of consortium	Rs.1,50,000/-
3	Loss of love and affection	Rs.1,50,000/-

<i>Sl.No.</i>	<i>Head</i>	<i>Amount granted by the Tribunal</i>
4	Transportation expenses	Rs. 2,000/-
5	Funeral expenses	Rs. 3,000/-
	Total	Rs. 9,77,000/-

4. The learned counsel for the appellant would submit that awarding a compensation of a sum of Rs.9,77,000/- towards the death of a 42 year old man who was working as Advocate Clerk, in favour of his wife, 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 1 and 2 are major claimants 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 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 42 years has fixed the income of the deceased at Rs.6,000/- per month and after deducting 1/3rd towards his personal expenses and fixed his monthly income at

Rs.4,000/- per month. It is pertinent to point out that the Honourable Apex Court, in the judgment 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 2009, 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 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 1 and 2 are majors and 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.91 of 2010 on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Mannargudi, 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 major respondents/claimants 1 and 2 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 11.03.2014, should be strictly followed. There will be no order as to costs in this appeal. Consequently, connected miscellaneous petition is closed.

29.04.2016

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S.VAIDYANATHAN, J.

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To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Mannarkudi.

C.M.A. No.1134 of 2016

29.04.2016