

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1033 of 2016
and
C.M.P No. 7963 of 2016

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

... Appellant/Respondent

Vs.

1.Vembu
2.Sasikala
3.Karuppusamy

... Respondents/Claimants

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 30.08.2013 made in M.C.O.P.No.265 of 2010 on the file of the Motor Accident Claims Tribunal, (Principal District Judge), Perambalur.

For Appellant : Mr. D.Venkatachalam
For Respondents : --

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 03.12.2009, the appellant Transport Corporation bus bearing Registration No.TN 68 N 0015, came in a hectic speed on Tanjore Tiruchy Main Road and at Vallampudhur bus stop, dashed against the deceased Mahalingam. In the accident, he sustained grievous fatal injuries and died in the hospital. The Claim Petition has been filed by his wife and children, 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.5,48,000/- as compensation, under the following heads:

Sl. No	Heads	Amount
1	Loss of Income	Rs.4,68,000.00
2	Loss of love and affection	Rs. 30,000.00
3	Loss of consortium to the 1 st claimant/ wife	Rs. 30,000.00
4	Loss of estate	Rs. 10,000.00
5	Transport Expenses	Rs. 5,000.00
6	Funeral expenses	Rs. 5,000.00
	Total	Rs.5,48,000.00

3. Learned counsel appearing for the appellant/Transport Corporation, challenging negligence, mainly contended that the deceased suddenly crossed the road and inspite of the driver of the appellant Transport Corporation bus applied brake, the deceased sustained fatal injuries and hence the contributory negligence should have been fixed on the deceased. He further contended that the Tribunal has erred in following multiplier '13' and the quantum of compensation awarded by the Tribunal is also on the higher side. Aggrieved by the same, this appeal has been filed.

4. Based on the depositions of the witnesses, the evidences and documents produced before the Tribunal, it is found that the driver of the bus is responsible for the accident. Following the principles laid down by the Hon'ble Supreme Court in Sarala Verma's case, the Tribunal has rightly adopted multiplier '13', since the age of the deceased has been considered as 50, as per the postmortem report. Although it is stated before the Tribunal that the deceased was an Agricultural Coolie, in the absence of any proof, his income has been fixed only at a minimum of Rs.4500/- per month and deducting 1/3rd towards personal expenses, the loss of income has been calculated at the rate of Rs.3000/- per month.

5. This Court considered the submissions made by the learned counsel for the appellant and perused the materials available on record. Since the respondents/ claimants are 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. Although the criminal case registered on the driver of the appellant transport Corporation bus has ended in acquittal, based on the

deposition of witnesses and documentary evidences, the Tribunal has rightly held the driver of the bus, responsible for the accident and the appellant Transport Corporation is liable to pay the compensation. While the Tribunal has correctly followed the decisions of the Hon'ble Apex Court, in adopting the multiplier, this Court is not inclined to interfere with the award granted by the Tribunal. Considering the age of the wife and children of the deceased, this Court finds that there is no merit to modify the compensation granted by the Tribunal.

7. In view of the above, 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.265 of 2010 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur, 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.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To :
The Principal District Judge
(Motor Accidents Claims Tribunal,)
Perambalur.

C.M.A.No.1033 of 2016
and

C.M.P. No. 7963 of 2016

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