

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1050 of 2016

and

C.M.P.No.7984 of 2016

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

... Appellant/ Respondent

Vs.

1. Krishnammal
2. Madhavi
3. Madhavan
4. Kanagavalli
5. Sivachandran

... Respondents/ Claimants

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 13.07.2012 made in M.C.O.P No.123 of 2011 on the file of the Motor Accident Claims Tribunal, (Sub Judge), Mannarkudi.

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 27.04.2010, the appellant Transport Corporation bus bearing Registration No.TN 49 N 1876, came in a rash and hectic speed on Mannargudi Kalavaikarai Main Road and dashed against the deceased Paulraj, who was travelling in his bicycle. In the accident, he sustained grievous injuries and was taken to Mannargudi Government Hospital and then for better treatment to Thanjavur Medical College Hospital, but died in the hospital on 30.04.2010. The Claim Petition has been filed by his two wives 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.3,83,000/- as compensation, under the following heads:

Sl. No	Heads	Amount
1	Loss of Dependency	Rs.2,52,000.00
2	Loss of love and affection to claimants 2,3 & 5	Rs. 75,000.00
3	Loss of consortium to claimants 1 & 2/ wives	Rs. 50,000.00
4	Attender charges	Rs. 1,000.00
5	Transport Expenses	Rs. 2,000.00
6	Funeral expenses	Rs. 3,000.00
	Total	Rs.3,83,000.00

3. Learned counsel appearing for the appellant/Transport Corporation, challenging negligence, mainly contended that the deceased came in his bicycle in a zig zag manner and dashed against the bus and inspite of the driver of the appellant Transport Corporation bus applying brake, the deceased fell down and sustained fatal injuries and hence the entire negligence should have been fixed on the deceased. He further contended that the Tribunal has erred in following multiplier '7', in the absence of any documentary evidence for his age and income. The quantum of compensation awarded by the Tribunal under the heads 'loss of consortium' and 'loss of love and affection' 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 has been 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 '7', since the age of the deceased has been considered as 62, 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.3000/- per month. The deceased has left behind 5 dependants and hence the compensation granted by the Tribunal is fair and reasonable.

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 will not 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. Due to accident, the

deceased has been admitted in Thanjavur Medical College Hospital for four days, inspite of the best treatment he died and the deceased was brought to his native village. Considering the sufferings undergone by the family of the deceased and the age of his dependents, the Tribunal has awarded this compensation, which this Court finds correct and hence there is no merit to modify the compensation granted by the Tribunal. While the Tribunal has strictly followed the decisions of the Hon'ble Apex Court and the guidelines of this Court, in adopting the multiplier, this Court is not inclined to interfere with the award 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.123 of 2011 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Mannargudi, 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 claimants and it should not be issued in favour of any other person/Company. No costs. Consequently, the C.M.P. is closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

avr

To :

The Subordinate Judge
(Motor Accidents Claims Tribunal,)
Mannargudi.

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GR (CO)
kra 06.07.2016