

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1056 of 2016

and

C.M.P.No.7992 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Kumbakonam.

... Appellant/2nd Respondent.

Vs.

1. Thirumalaisangu
2. Arulsangu, Minor.
3. Elayamathi, Minor.

Minors R-2 and R-3 by their father
and next friend R-1/Thirumalaisangu... Respondents 1 to 3 /
Petitioners.

4. Elavarasan. ... Respondent No.4/1st
Respondent.

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 25.09.2013, made in M.C.O.P No.189 of 2012 on the file of the Motor Accident Claims Tribunal, District Judge, Nagapattinam.

For Appellant : Mr. D.Venkatachalam
For Respondents 1 to 3 :

J U D G M E N T

The Transport Corporation has come up with this appeal challenging the quantum of compensation awarded by the Tribunal.

2. On 30.05.2010, when the deceased Anandhi was travelling as a pillion rider with her husband in a motor cycle, near Nagoor Indian Bank, the appellant Transport Corporation bus bearing Registration No.TN 49 N 2008, driven in a rash and negligent manner, dashed against the motor cycle. The Claim Petition has been filed by her husband and two minor children, before the Tribunal, seeking a sum of Rs.6,00,000/- as compensation. After analyzing the available oral and documentary evidences, the

Tribunal awarded a sum of Rs.6,08,000/- as compensation, under the following heads:

Sl. No	Heads	Amount
1	Loss of Dependency	Rs.5,76,000.00
2	Loss of love and affection to claimants 1 & 2	Rs. 10,000.00
3	Loss of consortium to husband	Rs. 10,000.00
4	Transport Expenses	Rs. 2,000.00
5	Funeral expenses	Rs. 10,000.00
	Total	Rs.6,08,000.00

3. Learned counsel appearing for the appellant/Transport Corporation, mainly contended that the Tribunal has adopted the wrong multiplier '16', while the appropriate multiplier for the age group between 36 and 40 would be '15'. The quantum of compensation awarded by the Tribunal under the other heads are 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. Although it is stated before the Tribunal that the deceased was working as an agriculture coolie and earning a sum of Rs.6000/- per month, in the absence of any documentary proof, the Tribunal has fixed only the minimum wage of Rs.4500/- per month and on deducting 1/3rd towards personal expenses, a sum of Rs.3000/- has been considered as her income per month. The deceased has left behind two minor children and hence the compensation granted by the Tribunal may be considered as 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 rider of the motor cycle. Following the principles laid down by the Apex Court and this Court, the Tribunal has followed the multiplier method and has granted a reasonable amount towards compensation for the

dependants of the deceased. Hence, 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.189 of 2012 on the file of the Motor Accidents Claims Tribunal, District Judge, Nagapattinam, 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 major 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. It is needless to mention that the proportionate share of the minor respondents/claimants shall be deposited in any one of the Nationalised Banks initially under reinvestment scheme for a period of three years, renewable thereafter periodically and the interest accrued thereon shall be withdrawn by their natural guardian, once in three months, till the minors attain majority. In the case of minor claimants, the proportionate share of the award amount shall be paid to them in the form of a crossed Account Payee Cheque, once they attain majority. No costs. Consequently, the C.M.P. is closed.

avr

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To :

1.The District Judge
Motor Accidents Claims Tribunal,
Nagapattinam.

2. The Section Officer,
V.R.Section, High Court,
Madras .

Copy to: The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam.

rsk(co)
prk1/8

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