

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1058 of 2016

and

CMP.No.7994 of 2016

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

..Appellant/1st Respondent

Vs.

1. Perumal
2. Magammal
3. Chitra
4. Hariharan (Minor)
5. Ajith (Minor)
6. Abirami (Minor)

Minors R-4 to R-6 are rep.
by next friend/guardian/mother R-3 ..Respondent 1 to6/
Petitioner

7. Anbukkarasu
R-7 set exparte ... Respondent/Respondent No.2

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 29.06.2011 made in M.C.O.P No.46 of 2008, on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Attur.

For Appellant : Mr. D.Venkatachalam
For Respondents 1to6: Mr. Ma.Pa. Thangavel for R1
Respondent-7 : set exparte

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 16.11.2007, while the deceased Mohan was travelling in his Suzuki motor cycle, from Thandanoor to Vellalapatti, near Athumedu Mariamman Koil, the appellant Transport Corporation bus bearing Registration No.TN 27 N 1157, came in a rash and hectic speed and dashed against him. In the accident, he sustained grievous injuries on his head and legs and was taken to Salem Government Hospital but he

died in the hospital. The Claim Petition has been filed by his parents, wife and children, before the Tribunal, seeking a sum of Rs.5,00,000/- as compensation. After analyzing the available oral and documentary evidences, the Tribunal awarded a sum of Rs.4,89,000/- as compensation, under the following heads:

Sl. No	Heads	Amount
1	Loss of Dependency	Rs.4,59,000.00
2	Loss of love and affection to claimants 2,3 & 4	Rs. 10,000.00
3	Loss of consortium to wife	Rs. 10,000.00
4	Transport & Hospital Expenses	Rs. 5,000.00
5	Funeral expenses	Rs. 5,000.00
	Total	Rs.4,89,000.00

3. Learned counsel appearing for the appellant/Transport Corporation, challenging negligence, mainly contended that the Tribunal has failed to consider the deposition of RW1, conductor of the bus, narrating that the deceased driving his motor cycle in a rash manner, 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 ought not to have considered the evidence of PW1, who is the wife of the deceased and not an eye witness to the accident. He further contended that in the absence of any valid documentary evidences to prove the age and income of the deceased, the compensation awarded by the Tribunal is on the higher side. Challenging the quantum, this appeal has been filed by the appellant Transport Corporation.

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 by the claimants that the deceased was working as a coolie and a Tapioca broker, in the absence of documentary proof, the Tribunal has considered only Rs.3000/- as his monthly income. The deceased has left behind his father, mother, wife and three minor children. Considering the age of deceased, his 6 dependants, the Tribunal has granted a reasonable compensation.

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 was given treatment in the Hospital and inspite of the best treatment, he died after four days. Following the principles laid down by the Hon'ble Supreme Court in Sarala Verma's case, the Tribunal has rightly adopted multiplier '17', since the age of the deceased has been confirmed as 28, in the postmortem report. Although it is stated before the Tribunal that the deceased was working as a coolie and doing Tapioca business, in the absence of any proof, his income has been fixed only at a minimum of Rs.3000/- per month and after deducting 1/3rd towards his personal expenses, a reasonable compensation has been granted towards 'loss of dependency'. Considering the sufferings of the dependents of the deceased and the age of his dependant wife, the Tribunal has awarded this compensation, which this Court finds correct and reasonable. 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.46 of 2008 on the file of the Motor Accidents Claims Tribunal, Sub Court, Attur, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay the apportioned share of 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 M.P. is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

avr

To :

1. The Sub Court
Motor Accidents Claims Tribunal,
Attur.
2. The Section Officer, VR Section,
High Court, Madras.

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

C.M.A.No.1058 of 2016
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RSK(CO)
EU 19.7.16



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