

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.1246 of 2016
& Connected M.Ps.

The Managing Director
Metropolitan Transport Corporation Limited
Dharmapuri.

... Appellant/Respondent

vs.

1. Asodhai
2. Mani
3.Unnamalai
4.Poonkodi
5.Kamla
6.Adhi Lakshmi
7.Sivagami

.. Respondents/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 30.11.2012 passed in M.C.O.P.No.111 of 2011 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Tiruvannamalai.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the Judgment and decree dated 30.11.2012 passed in M.C.O.P.No.111 of 2011 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Tiruvannamalai.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. A 70 year old man, who travelled as a passenger in the bus belonging to the Transport Corporation died in a fatal accident which took place on 07.07.2009, when the appellant Corporation Bus hit against the Tiruvannamalai Transport Corporation bus and caused the accident. Wife, daughters and son who are the legal heirs of the deceased approached the Tribunal claiming compensation to the tune of Rs.5,00,000/-. The Tribunal, taking note of the factual aspect, fixed the monthly income at Rs.4,000/- per month and not as pleaded by the claimants at Rs.10,000/- per month and by adopting multiplier method and after deducting 1/3rd towards personal expenses, awarded the compensation to the tune of Rs.1,60,020/- towards loss of income, besides awarding a sum of Rs.15,000/- towards loss of love and affection to the wife and a sum of Rs.10,000/- towards loss of love and affection to the children and a sum of Rs.5,000/- towards funeral expenses,

and a sum of Rs.2,000/- towards transportation to hospital, totalling a sum of Rs.2,57,000/- together with interest at 7.5% p.a. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

4. According to the learned counsel for the appellant/Corporation, in the absence of proof of income, the Tribunal erred in fixing the monthly income at Rs.4,000/- per month and hence, this appeal has been filed seeking modification of the award.

5. It is true that the accident was caused due to the negligent act of the driver of the Appellant Transport Corporation bus in which the deceased was travelling as a passenger. Though he was treated at first in Tiruvannamalai Government hospital and then at Jipmer Hospital, Pondicherry, he succumbed to death. That apart, while discussing the fixation of monthly income of the deceased, this Court placed reliance on the Hon'ble Apex Court Judgment in the case of ***"Syed Sadiq and others versus Divisional Manager, United India Insurance Co.Ltd."*** reported in 2014 ACJ 627, wherein, in respect of a vegetable vendor, who sustained injuries in an accident which occurred in 2008, the Apex Court determined Rs.6500/- as the monthly income. As far as this case is concerned, the accident had occurred in the year 2009. Hence, fixation of a sum of Rs.4,000/- as income per month by the

Tribunal cannot be said to be excessive. That apart, I am of the view that the Tribunal has awarded only a meager amount under other conventional heads for the death of a 70 year old man, who had seven dependents. Hence, taking note of the totality of the circumstances, I find no reason to interfere with the award of the Tribunal.

6. 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.111 of 2011 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Tiruvannamalai, if not already deposited, within a period of six weeks from the date of receipt of a copy of this order and on such deposit being made, the claimants are entitled to withdraw their respective shares as apportioned by the Tribunal on filing necessary applications before the Tribunal. There will be no order as to costs in this appeal. Connected miscellaneous petition is closed.

29.04.2016

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To

1. The Motor Accidents Claims Tribunal
Chief Judicial Magistrate, Tiruvannamalai.

S.VAIDYANATHAN,J.

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