

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 25.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T. MATHIVANAN

C.M.A.No.1452 of 2016

and

C.M.P.No.11131 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division - 1,
Villupuram. ...Appellant/Respondent-1

...vs...

1.Rani
2.Kuberan ... Respondents 1& 2/Petitioners
3.Prasannan
4.The New India Assurance Company Limited,
128-A, Thiru.Vi.Ka.Road,Villupuram.
... Respondents 3&4/Respondents 2&3

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 13.06.2014 made in M.C.O.P.No.120 of 2013 on the file of the Motor Accident Claims Tribunal, The Special District Judge, Villupuram.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

The Tamil Nadu State Transport Corporation who is the appellant herein is the first respondent in the claim petition in M.C.O.P.No.114 of 2011. The Tribunal had totally awarded a sum of Rs.6,73,000/- against the claim of Rs.10,00,000/-.

2. The appellant/Transport Corporation is mulcted with the liability of 75% which is calculated at Rs.5,04,750/-. Challenging the quantum of compensation, this appeal is preferred by them.

3. As it is revealed from the records, the respondents 1&2, being the wife and son of the deceased prakash, had moved the claims Tribunal with the claim petition in M.C.O.P.No.120 of

2013 claiming a sum of Rs.10,00,000/- for the death of the said Prakash in a road traffic accident said to have been taken place on 07.12.2010 at about 11.45 p.m involving a passenger bus bearing Regn.No.TN-32-N-2820 and a lorry bearing Regn.No.T.C.B.6264 and in the said accident, the said Prakash had succumbed to the injuries.

4. At the time of accident, the deceased was aged about 55 years and his occupation was HTV lorry driver. According to the claimants the deceased was earning a sum of Rs.10,500/-. The Tribunal in its award dated 13.06.2014, had fixed the monthly income of the deceased at Rs.9,000/- including the batta received by him. Since he was aged about 55 years, the multiplier of 9 was selected. The annual income of the deceased was therefore calculated at Rs.1,08,000/-. After deducting 1/3rd towards the personal and living expenses of the deceased, the total dependency per year could be calculated at Rs.72,000/-. Since the deceased was aged about 55 years, applying the multiplier of '9' the pecuniary loss of family was calculated at Rs.6,48,000/- Since 25% negligence was attached with the driver of the lorry and 75% of negligence was attached with the driver of the passenger bus, the appellant/Transport Corporation was held liable to pay the compensation to the claimants to the extent of 75%, which is calculated at Rs.5,04,750/-.

5. This Court has carefully considered the award passed by the Tribunal along with the materials available on record. Having regard to the related facts and circumstances of this case and the selection of multiplier and other methods adopted by the Tribunal, this Court is of the view that the award passed by the Tribunal does not require any modification or change.

6. Accordingly, this appeal is dismissed confirming the award passed by the Tribunal. The appellant/Transport Corporation is directed to deposit a sum of Rs.5,04,750/- with interest at the rate of 7.5% per annum from the date of petition till the date deposit.

7. Mr.K.J.Sivakumar, learned counsel for the appellant is not able to say as to whether any appeal is filed on behalf of New India Assurance Company, who is the insurer of the other vehicle viz., lorry bearing Regn.No.T.C.B.6264. In so far as this case is concerned, the appellant/Transport Corporation is directed to deposit the above said amount along with the accrued interest as aforesaid within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants are entitled to withdraw the entire amount,

less the amount if any already withdrawn by them in accordance with the ratio allocated by the Tribunal. No costs. Consequently, connected Miscellaneous Petition is also closed.
nvi

-s/d-

Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

1. The Special District Judge, Villupuram.

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

+ 1 cc to M/s.K.J.Sivakumar, Advocate SR 42454

rsk(co)
prk1/9

C.M.A.No.1452 of 2016
and
C.M.P.No.11131 of 2016



WEB COPY