IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.160 of 2016
and C.M.P.No.1355 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Limited
Villupuram Division - II, Rangapuram
Vellore - 9.
... Appellant/Respondent

vs.

1. Amulu
2. Minor Yashwanth
(rep. by R1 - mother)
3. Unnamalai
4. Chinnaraj ...Respondents/Petitioners

Civil Miscellaneous Appeal is filed under Section 173 of the the Motor Vehicles Act, 1988 against the award and decree dated 25.06.2015 passed in M.C.O.P.No.850 of 2014 on the file of the Motor Accidents Claims Tribunal (I Additional District and Sessions Court), Vellore.

For Appellant : Mr.S.Sairaman

JUDGMENT

(Judgment of the Court was delivered by R.SUDHAKAR,J.)

The Tamilnadu State Transport Corporation is on appeal challenging the award dated 25.06.2015 passed in M.C.O.P.No.850 of 2014 on the file of the Motor Accidents Claims Tribunal (I Additional District and Sessions Court), Vellore.

2. It is a case of fatal accident. On 23.08.2012, at about 3.30 p.m., while the deceased was travelling in a Tamil Nadu State Transport Corporation bus bearing Registration No.TN-23N-2129, near Rajakulam, Kancheepuram, the driver of the bus drove the bus in a rash and negligent manner thereby dashed against the lorry bearing Registration No.TN 73 D 2703, which was parked

on the extreme left side of the road. As a result, the deceased died on the spot. The claimants, who are wife aged 24 years, minor children, aged 1 year, mother, aged 45 years and father, aged 48 years of the deceased have filed a claim for compensation for a sum of Rs.25,00,000/-. According to the claimants, the deceased was working as Collection Executive in Vamana Chit Funds and was earning a sum of Rs.15,000/- per month.

3. In support of the claim, the father of the deceased was examined as P.W.1; one Palani, stated to be eye witness to the accident, was examined as P.W.2 and one Krishnan, employer of the deceased was examined as P.W.3 and Ex.P-1 to Ex.P-14 were marked, the details of which are as follows:-

Ex.No.	Date	Details
P1	23.08.2012	Certified Xerox Copy of F.I.R.
P2	28.11.2012	Certified Xerox copy of the final report
P3	28.08.2012	Certified xerox copy of the postmortem report
P4	23.08.2012	Certified xerox copy of the Rough Sketch
P5	29.08.2012	Certified xerox copy of the M.V.I. Report
P6	--	Xerox copy of the Registration Certificate
P7	--	Xerox copy of the driving license
P8	03.01.2013	Legal Heirship certificate
P9	07.12.2012	Salary Certificate
P10	--	Xerox copy of the physically handicapped certificate
P11	--	ID proof of PW3
P12	22.04.2015	Salary certificate
P13	--	Salary voucher
P14	--	xerox copy of the pass book

On behalf of the appellant transport corporation, one Amanullah, Assistant Manager was examined as R.W.1 and Ex.R.1 - xerox copy of the ID proof was marked before the Tribunal.

4. The Tribunal based on the oral evidence of the witnesses, the F.I.R. and also taking note of the fact that the evidence of the witnesses were not rebutted by the appellant herein came to conclusion that the driver of the appellant transport corporation bus was rash and negligence and was responsible for

the accident and consequently liability was fixed on the appellant transport corporation to compensate the claimants. On this issue, learned counsel for the appellant has no serious objection with regard to the finding of the Tribunal as no material has been placed to come to a different conclusion from that of the conclusion arrived by the Tribunal.

5. Based on the oral and documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of pecuniary benefits to the dependents of the deceased by adopting multiplier 18	Rs.14,40,000/-
2	Loss of love and affection	Rs. 90,000/-
3	Transport expenses	Rs. 5,000/-
4	Funeral expenses	Rs. 5,000/-
	Total	Rs.15,40,000/-

6. The only serious objection raised is with regard to the monthly income fixed by the Tribunal. Insofar as the compensation is concerned, based on the evidence of the first claimant as against the income of Rs.15,000/- per month claimed, the Tribunal fixed the income of the deceased at Rs.10,000/- per month in respect of the 25 years old deceased, a collection executive in a private chit company.

7. It is seen that the salary certificates Exs.P.9 and Ex.P.12 marked before the Tribunal show that the deceased was earning a consolidated sum of Rs.15,000/- per month. Even though the said certificates show that a sum of Rs.15,000/- as salary, the Tribunal fixed the same at Rs.10,000/- per month only, which is very reasonable and is justified.

8. The Tribunal deducted 1/3 towards personal expenses of the deceased. This appears to be justified.

9. Therefore, this Court finds no good reason to reduce the quantum of compensation awarded. The Tribunal has not awarded any sum towards loss of consortium to a young wife aged 24 years. Hence, on the face of the order of the Tribunal, it appears that the compensation granted by the Tribunal is marginally less than what could have been granted.

10. There is no serious objection in respect of the other amounts granted or the interest granted at 7.5% per annum.

11. Finding no merit, the Civil Miscellaneous Appeal is dismissed at the admission stage. Counsel for the appellant prays eight weeks' time to deposit the award amount and is granted. On such deposit the major claimants are permitted to withdraw their respective share as ordered by the Tribunal. The share of the minor shall be deposited in any one of the Nationalised Bank initially for a period of three years and to be renewable thereafter periodically, till he attains majority. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

The I Additional District and Sessions Court,
(Motor Accidents Claims Tribunal)
Vellore.

1cc to M/S.S.Sairaman, Advocate sr.7614

C.M.A.No.160 of 2016
and C.M.P.No.1355 of 2016

rsk(CO)
eu(22/02/2016)