

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16/9/2016

C O R A M

The Honourable **Mr.Justice S.Manikumar**
and
The Honourable **Mr.Justice N.Authinathan**

Civil Miscellaneous Appeal No.2082 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
(Salem) Limited
No.12 Ramakrishna Road
Dharmapuri 636 705.

...

Appellant

Vs

1. M. Vinoth Kumar

2. Raghunandhan

3. Mrs.Vijaya

...

Respondents

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 6/10/2012 made in M.C.O.P.No.4080 of 2011 on the file of the Motor Accident Claims Tribunal, XV Additional Judge, Chennai.

For appellant : Mr.D.Venkatachalam

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J U D G M E N T

Judgment of the Court was made by S.Manikumar,J)

Challenge in this appeal, is to the judgment and decree made in M.C.O.P.No.4080 of 2011, dated 6/10/2012, on the file of the Motor Accident Claims Tribunal XV Additional Judge, Chennai.

2. Short facts leading to the appeal are that on 9/5/2011, about 3.30 hours, when Swethanandhan, was travelling, as a passenger in the transport Corporation bus bearing Registration No.TN29N-2077, proceeding from Krishnagiri to Chennai at Chennai - Bangalore National Highways road, near J.M. complex, Irungattukottai, Kanchipuram District, the driver of the bus, hit the back side of a stationary lorry, bearing Registration No.TN22BT-5728. Shwethanandhan, sustained grievous injuries. She was admitted in Government General College Hospital, Chennai 3. Despite intensive treatment, she died on the same day.

3. A case in Crime No.279/2011, has been registered against the driver of the transport Corporation bus, on the file of the Inspector of Police, C-1,Sriperumbudur Police Station, Kumbakonam District. Husband and parents of the deceased filed M.C.O.P.No.4080 of 2011, claiming compensation of Rs.15 lakhs, under various heads. There were other claim petitions also. The Motor Accident Claims Tribunal, Chennai, XV Additional Judge, tried all the claim petitions together.

4. Ex.P.11 is the post mortem certificate of the deceased, in the instant appeal. Ex.P.14 is the legal heir certificate. P.W.3, husband of the deceased has deposed that at the time of accident, Shwethanandhan, was working as a Teacher in Holy Family Convent, Kizhkattalai, Chennai, and earned Rs.15,000/- per month. But no document has been produced to substantiate the claim. However, the Tribunal fixed a notional income of Rs.10,000/- per month and after deducting 1/3rd towards her personal and living expenses, computed loss of contribution to the family at Rs.6,667/-per month. Taking note of the entry, in Ex.P.11 post mortem report, the Tribunal has determined the

age of the deceased as 25 years. Following the second schedule to Section 163 A of the Motor Accident, the Tribunal has applied 17 multiplier. Thus, the Tribunal computed the loss of income to the family as Rs.13,60,068/-. That apart, the Tribunal has awarded Rs.5,000/- for funeral expenses, Rs.50,000/- under the head loss of consortium and Rs.1 lakh for loss of love and affection. Altogether, the Tribunal has awarded Rs.15,15,068/- as compensation with interest, at the rate of 7.5%, till realisation.

5. Though Mr.D.Venkatachalam, learned counsel for the transport Corporation, assailed the quantum of compensation, on the ground that the Tribunal has erred in fixing the monthly income of the deceased at Rs.10,000/- per month, without any proof, this Court is not inclined to accept the said contention for the reason that even as a house maker, the deceased would have contributed to the family and that her gratuitous services have to be taken into account for the purpose of determining the notional income.

6. The only challenge made in the instant appeal on the aspect of determination of income, fails, appeal is liable to be dismissed. There are no grounds for reversal.

7. Thus while concurring with the finding of the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

8. Tamil Nadu State Transport Corporation (Salem) Limited, Dharmapuri, is directed to deposit the entire award amount, with proportionate interest and costs, less the statutory deposit, to the credit of M.C.O.P.No.4080 of 2011 on the file of the Motor Accident Claims Tribunal, XV Additional Judge, Chennai, within a period of eight weeks, from the date of receipt of a copy of this order.

9. Registry is directed to send a copy of this order to the Motor Accident Claims Tribunal, XV Additional Judge, Chennai, and display the same in the notice Board, that C.M.A.No.2082 of 2016 filed by the Managing Director, Tamil Nadu State Transport Corporation (Salem)

Limited, Dharmapuri against the legal representatives of the deceased, has been dismissed, with a direction to deposit the entire award amount to the credit of M.C.O.P.No.4080 of 2011, on the file of XV Additional Judge, Chennai, within a period of eight weeks, from the date of receipt of a copy of this order. Motor Accident Claims Tribunal is further directed to mention M.C.O.P number and the parties to the lis also in such notice. The Tribunal is directed to disburse the amount only on proper identification and proof, to the claimants.

(S.M.K.,J) (N.A.N.,J)
16th September 2016.

mvs.

Index: yes/No

website: Yes/No.

To

1. The Motor Accident Claims Tribunal, XV Additional Judge, Chennai.
2. The Managing Director
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No.12 Ramakrishna Road
Dharmapuri 636 705.

S.MANIKUMAR,J

a n d

N.AUTHINATHAN,J

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