

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 26.09.2016

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

C.M.A. No.2041 of 2016
and
C.M.P.No.14898 of 2016

The Managing Director,
Tamilnadu State Transport Corporation,
Cuddalore ... Appellant

Vs.

1.Govindammal
2.Valarmathy
3.Malarkodi
4.Sakunthala
5.Pachammal
6.Minor Sharmilla
7.Minor Sala
8.Minor Hemalatha ... Respondents
[Minor respondent 6,7,8 are represented by their next friend
and mother 5th respondent]

Prayer: Appeal under Section 173 of the Motor Vehicles Act,
1988 against the Decree and Judgment passed by the Motor
Accidents Claims Tribunal (Special District Court),
Krishnagiri in MCOP No.25 of 2014 dated 07.01.2016.

For Appellant : Mr.P.Paramasivadoss

JUDGMENT

(Order of the Court was made by S.MANIKUMAR, J.)

At the outset, Mr.P.Paramasivadoss, learned counsel for the transport corporation submitted that the quantum of compensation of Rs.15,23,000/- awarded to the legal representatives of the deceased with interest, at the rate of 7.5% per annum from date of claim till deposit and on default to deposit within 60 days, penal interest of 9%, is the only challenge in this appeal, on the grounds inter alia that a sum of Rs.10,000/- ought not to have been taken as the monthly income of the deceased without any evidence. It is also his contention that the tribunal ought not to have applied '11' multiplier for the purpose of computing loss of contribution to the family. Submission of the learned counsel is placed on

record. In the light of the above, there is no need to advert to other aspects.

2. In the accident, which occurred on 17.12.2013, Govindan, breadwinner of the respondents/claimants died. According to claimants, the deceased was doing business in selling Mangoes, Coconut and vegetables and earned Rs.20,000/- per month. However, no document was filed. He is survived by two wives, three major daughters and three minor daughters, aged about 14, 6 and 3 years, respectively.

3. Having regard, to the number of dependants, the tribunal fixed Rs.10,000/- as the monthly income. To provide food, shelter, clothing, education and other basic necessities to the abovesaid dependants, including three minor children, one may require a reasonable income. Even taking for granted that the deceased was living in his own house, there are some inevitable expenses, such as Electricity charges, water tax, transportation etc.

4. Having regard to the above, Rs.10,000/- fixed as the monthly income for the purpose of computing the loss of contribution to the family cannot be said to be on the higher side. Taking into consideration, the number of dependants the tribunal has deducted 1/5th towards the personal and living expenses of the deceased, which cannot be said to be erroneous in the light of the decision of the Supreme Court in Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation and another, reported in 2009 (2) TN MAC 1 (SC).

5. The deceased was 55 years at the time of accident. Following the judgment of the Supreme Court in Sarla Varma's case, the tribunal applied '11' multiplier. Though, Mr.P.Paramasivadosh, learned counsel for the transport corporation submitted that a lesser multiplier ought to have been applied, this Court is not inclined to accept the same. By applying '11' multiplier, the tribunal has computed the loss of contribution to the family as Rs.10,56,000/- (Rs.8000/- x 12 x 11). That apart, the tribunal has awarded compensation as follows:

Transportation as per Ex.P5	= Rs. 24,000/-
Damages to clothes and articles	= Rs. 3,000/-
Medical expenses as per Ex.P3	= Rs. 15,000/-
Loss of consortium	
(Rs.50,000/- each to R1 and R5)	= Rs.1,00,000/-
Loss of love and affection to six children Rs.50,000/- each	= Rs.3,00,000/-
Funeral expenses	= Rs. 25,000/-

Altogether, the tribunal has awarded a sum of Rs.15,23,000/- with interest, at the rate of 7.5% per annum till deposit and on default to deposit within 60 days, penal interest of 9% is levied.

6. The overall quantum of compensation awarded to the legal representatives of the deceased numbering eight, cannot be said to be on the higher side warranting interference. Both the grounds raised by the transport corporation are not sustainable and hence, rejected.

7. Rate of interest of 9% for default is not permissible. As we are confirming the awarding amount, in terms of this Court order in Shanmughasundaram & Another v. Jothi & Others reported in 2005-1-L.W.-566, interest rate is reduced to 7.5% per annum from the date of claim, till deposit.

8. Civil Miscellaneous Appeal is allowed in part only to the extent of reduction in the rate of interest. No costs.

9. The appellant-Transport Corporation, is directed to deposit the entire award amount with proportionate accrued interests and costs, less the amount already deposited, to the credit of MCOP No.25 of 2014, on the file of the Motor Accidents Claims Tribunal (Special District Court), Krishnagiri within a period of four weeks from the date of receipt of a copy of this order.

10. The share of the minors/respondents 6 to 8, shall be deposited in any one of the Nationalised Banks in fixed deposit under the reinvestment scheme initially for a period of three years. The interest accruing on the share of the minors shall be paid to the 5th respondent/mother of the minors once in three months, till they attain majority. On such deposit being made, except the minors, the respondents/claimants are permitted to withdraw the award amount as apportioned by the tribunal, by making necessary applications. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

The Motor Accidents Claims Tribunal (Special District Court), Krishnagiri, is directed to fix the results of the appeal in the notice board setting out the names of the parties and the MCOP Number. Tribunal is further directed to disburse the compensation amount to the legal representatives of the deceased after proper identification.

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1. The Motor Accidents Claims Tribunal,
Special District Court, Krishnagiri
2. The Section Officer,
VR Section,
High Court, Madras.

+lcc to Mr.P.Paramasivadoss, Advocate, S.R.No.55207

C.M.A. No.2041 of 2016

CTR(CO)
CA(25/10/2016)



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