

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2016

CORAM

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

C.M.A.No.196 of 2015

The Managing Director
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Thiruvannamalai Region
Thiruvannamalai 606 601 ... Appellant/Respondent

vs.

1. V.Dhanalakshmi
2. V.Karthick
3. Minor V.Arun
4. Minor V.Balaji
5. K.Ellan
6. Muniyammal

(Minors 3 & 4 are represented
by mother/guardian - 1st respondent)

..Respondents/petitioners

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 16.09.2014 passed in M.C.O.P.No.469 of 2011 on the file of the Motor Accidents Claims Tribunal (Additional District & Sessions Court), Vellore.

For Appellant : Mr.P.Paramasivadoss
For Respondents : Mr.S.P.Yuvaraj

JUDGMENT

(Judgment of the Court was delivered by S.VAIDYANATHAN,J)

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the Judgment dated 16.09.2014 passed in M.C.O.P.No.469 of 2011 on the file of the Motor Accidents Claims Tribunal (Additional District & Sessions Court), Vellore.

2. It is a case of fatal accident. On 23.08.2011 at about 22.00 hours on Bagayam to Katpadi Road, near Green Circle, opposite to MSR Parking Centre, 2 KM North of Vellore North Police Station Limit, when the deceased E.Venkatesan was riding his Hero Honda Splendor bearing Registraiton No.TN-23-H-9790 from North to South direction at the extreme left side of the road, the Bus bearing Registration No.TN-25-N-0122, which was driven in a rash and negligent manner, came from South to North direction, hit and dashed against the deceased E.Venkatesan, who sustained severe head injury and multiple injuries all over the body. Immediately, the deceased was taken to the CMC Hospital, Vellore for treatment, where he become serious and the injuries succumbed his life and he died in the said hospital on 28.08.2011. The wife, children and the parents who are the claimants have filed a claim petition for compensation for a sum of Rs.79,00,000/-.

3. In support of the claim, Dhanalakshmi, wife of the deceased was examined as P.W.1; One Purushothaman who was an eye witnesses was examined as P.W.2 and one N.T.Ramesh was examined as P.W.3.and Ex.P-1 to Ex.P.12 were marked, the details of which are as follows:-

Ex.No.	Details
P1	Certified xerox copy of FIR
P2	Certified xerox copy of Express report
P3	Death certificate
P4	Postmortem certificate
P5	Xerox copy of the MVI Report
P6	Certified xerox copy of charge sheet
P7	Legal heirship certificate
P8	Original identity card
P9	Medical bills for Rs.40,679/-
P10	Original transfer certificate
P11	Original Salary certificate
P12	Service Register Extract

On behalf of the Transport Corporation one Raja was examined as R.W.1 and Ex.R1 - Xerox copy of the Judgment in STC 362/2011of J.M.IV Court, Vellore was marked before the Tribunal

4. The Tribunal based on the oral evidence of the witnesses, the F.I.R. and taking note of the fact that the deceased was having valid driving licence to drive the two wheeler came to

conclusion that due to the rash and negligent driving of the driver of the Corporation Bus the accident had occurred and he alone was responsible for the accident and consequently liability was fixed on the appellant, to compensate the claimants.

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 income	Rs.30,41,460/-
2	Loss of consortium	Rs. 50,000/-
3	Funeral expenses	Rs. 10,000/-
4	Mental shock and agony	Rs. 30,000/-
5	Love and affection	Rs. 75,000/-
6	Medical expenses	Rs. 40,700/-
7	Loss of future prospects	Rs.9,12,420/-
	Total	Rs.41,59,580/-

6. The learned counsel for the appellant would submit that awarding a compensation of a sum of Rs.41,59,580/- towards the death of a 40 year old Head Constable, in favour of his wife, two children and parents is highly excessive and unsustainable. The Tribunal has erred in taking the income of the deceased at Rs.22,529/-, in the absence of any proof. Further, the Tribunal has erred in fixing the higher multiplier at 15 instead of 13 as per Sarla Verma case. He would further submit that the Tribunal ought to have followed the fixation of gross compensation instead of awarding compensation on various heads. Hence, the learned counsel for the appellant has sought for allowing of the Civil Miscellaneous Appeal.

7. On the other hand, the learned counsel for the claimants would submit that the compensation awarded by the Tribunal is not adequate and too low. The Tribunal was correct in awarding the compensation under the heading loss of income, since, the Tribunal, taking note of the fact that the deceased was working as Head Constable in Tamil Nadu Police as per Ex.P.8 and on the evidence of P.W.3, the Additional Superintendent of Police cum Principal of Police Training School and on the basis of Exs.P.12 Salary Certificate and Ex.P.13, Service Register extract, fixed the income of the deceased at Rs.22,529/-, which cannot be faulted with. Thus, the learned counsel for the claimants has sought for dismissal of the above Appeal.

8. This Court heard the submissions of the learned counsel on either side and perused the materials available on record.

9. The deceased E.Venkatesan was working as a Head Constable and was earning a sum of Rs.22,529/- in August 2011 as per Ex.P.11. The Tribunal, has rightly deducted 1/4th towards his personal expenses and adopting 15 multiplier, has correctly calculated the loss of income. Thus, we find no error in the compensation awarded under the heading loss of income. Coming to the medical expenses also, we find from the records that the deceased was treated in the CMC Hospital from 23.08.2011 to 28.08.2011, for which, the medical bills Ex.P.9 was marked and based on that, the Tribunal has rightly awarded a sum of Rs.40,700/- towards medical expenses. Further, a perusal of the Judgment of the Tribunal reveals that the compensation granted under the other heads also appear to be reasonable. Hence, we find no reason to modify or enhance the compensation as claimed by the claimants.

10. There is no serious objection with respect the interest granted at 7.5% per annum.

11. In the above circumstances, finding no merit, the Civil Miscellaneous Appeal is dismissed. Since this Court has already directed to deposit the entire award amount, the major claimants are now permitted to withdraw their respective shares as apportioned by the Tribunal by filing appropriate application before the Tribunal. As far as share of the claimant Arun is concerned, since he would have attained majority by now, he is permitted to withdraw his share by filing necessary application before the Tribunal. As far as the share of the minor V.Balaji is concerned, the same shall be invested in a Nationalized Bank in reinvestment scheme till he attains majority. It is made clear that the interest accrued on such deposit shall be withdrawn by the 1st claimant/wife of the deceased once in three months. There will be no order as to costs in this appeal.

rg

s/d-

Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

To

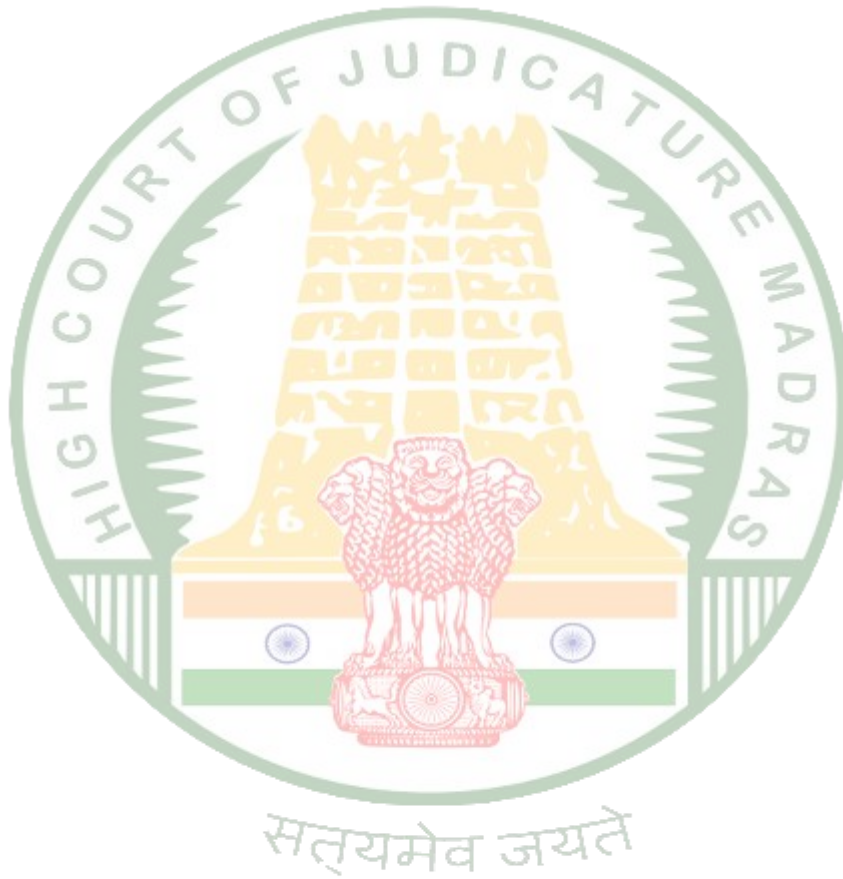
- 1.The Motor Accidents Claims Tribunal
Additional District & Sessions Court), Vellore.
2. The Section Officer,
V.R.Section, High Court,
Madras.

+ 1 cc to Mr.S.P.Yuvaraj, Advocate SR 17728

+ 1 cc to Mr.P.Paramasivadosh, Advocate SR 17501

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