

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.09.2016

CORAM

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

C.M.A. No.2084 of 2016
and CMP No.15173 of 2016

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai, Chennai - 2. .. Appellant

Vs.

1. Tmt.Thulasi
2. Jayanthi
3. J.Ramya
4. Ramesh
5. Pappamaal .. Respondents

Prayer: Appeal under Section 173 of the Motor Vehicles Act, 1988 against the Decree and Judgment passed by the Motor Accidents Claims Tribunal (Fast Track Court II), Poonamalli in MCOP No.1030 of 2009 dated 22.08.2011.

For Appellant : Mr.V.Vasanth Kumar

JUDGMENT

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

Short facts leading to the appeal are that on 09.11.2009, when a passenger Jayaraman was boarding a Transport Corporation bus bearing Regn.No.TN01 N 8196, without noticing him, the bus was started in a rash

and negligent manner and as a result, the passenger fell down, sustained injuries and died. In this regard, a criminal case has been registered against the driver of the transport corporation bus, on the file of the Inspector of Police, Anna Square Traffic Investigation Wing, Chennai-3. Legal representatives viz., wife, children and mother filed MCOP No.1030 of 2009 on the file of the Motor Accidents Claims Tribunal (Fast Track Court II), Poonamalli. According to them, at the time of accident, the deceased was aged 55 years, and as an Assistant in Indian Railways, Chennai, earned Rs.18,000/- per month. They made claim for Rs.15 Lakhs under various heads.

2. Before the tribunal, PW1, is the wife; PW2, is the eye witness. Ex.P1, FIR, Ex.P2, Post Mortem report, Ex.P3, Legal Heir certificate and Ex.P4, Salary certificate, have been marked. RW1, is the conductor of the transport corporation bus.

3. Evaluating the pleadings and evidence, the claims tribunal found that the driver of the transport Corporation bus was negligent in causing the accident. Taking note of the oral testimony of PW1, wife that at the time of accident, her husband was an Assistant in Southern Railways and earned Rs.18,623/- duly supported by Ex.P4, salary certificate, the claims tribunal determined the monthly income as Rs.18,623/-.

4. Accepting the contention that the deceased was aged 55 years, the tribunal applied '11' multiplier and after deducting 1/3rd towards personal and living expenses of the deceased, the tribunal computed the loss of contribution to the family as Rs.16,38,780/- (Rs.12415 x 12 x 11). That apart, the tribunal awarded Rs.5,000/- for funeral expenses, Rs.5,000/- for transportation and Rs.10,000/- under the head loss of consortium. Altogether, the tribunal awarded compensation of Rs.16,58,780/- with interest, at the rate of 7.5% per annum, from the date of claim, till deposit and apportioned to the legal representatives of the deceased.

5. On this day, when the appeal was heard, Mr.V.Vasanth Kumar, learned counsel for the appellant submitted that the challenge made in this appeal is to the quantum of compensation of Rs.16,58,780/- with interest at the rate of 7.5% per annum from the date of claim, till realisation awarded to the legal representatives of the deceased on the grounds that the income determined by the tribunal is without proof and that no employer has been examined. Application of multiplier '11' is also disputed. Submission of the learned counsel is placed on record.

6. In so far as determination of income is concerned, no doubt the employer has not been examined. However, genuineness of Ex.P4, Salary certificate issued by Railways has not been disputed. In the absence of the

above, we are not inclined to accept the contention of the appellant Corporation. As per the decision of the Hon'ble Apex Court in ***Sarla Verma and Others Vs. Delhi Transport Corporation***, reported in **2009 ACJ 1298**, the multiplier applicable for the age group of victims between 55 to 60 years is '11'. Tribunal has applied the said multiplier for the purpose of computing the loss of contribution to the family. Compensation of Rs.5,000/- awarded under the head funeral expenses and Rs.10,000/- under the head consortium, is less.

7. In the light of the limited submission answered as above, we are not inclined to interfere with the award and therefore, it is confirmed. The Civil Miscellaneous Appeal is dismissed. No costs.

8. Consequent to the dismissal of the appeal, the appellant-Metropolitan 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.1030 of 2009 dated 22.08.2011, on the file of the Motor Accidents Claims Tribunal (Fast Track Court II), Poonamalli, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents/claimants are permitted to withdraw the same, by making necessary applications before the Tribunal. Consequently, connected

Miscellaneous Petition is also closed.

[S.M.K., J.] [N.A.N., J.]
19.09.2016

Index: Yes/No

Internet: Yes/No

Note:

The Motor Accidents Claims Tribunal (Fast Track Court II), Poonamalli, 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.

ars

To

1. Motor Accidents Claims Tribunal,
Fast Track Court II, Poonamalli
2. The Section Officer,
VR Section, High Court, Madras.

S.MANIKUMAR.J.
and
N.AUTHINATHAN.J.

ars

C.M.A. No.2084 of 2016

19.09.2016