

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

C.M.A.No.255 of 2015
and M.P.No.1 of 2015
and C.M.P.No.5567 of 2016

State Express Transport Corporation
Tamil Nadu Ltd.,
Rep. By its Managing Director
Chennai ...Appellant/Respondent

vs.

1.V.Veerammal
2.C.Veerappan ...Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree passed by the Motor Accident Claims Tribunal, Chennai (IV Court of Small Causes, Chennai) in M.C.O.P.No.2150 of 2010 dated 18.09.2014.

For Appellant : Mr.P.Paramasivados

For Respondents/claimants : Mr.N.M.Muthurajan

JUDGMENT

(Judgment of the Court was delivered by HULUVADI G. RAMESH,J.)

The Tamil Nadu State Transport Corporation has filed the above appeal challenging the award made in M.C.O.P.No.2150 of 2010, dated 18.09.2014 on the file of Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

2. It is a case of fatal accident. On 10.06.2010 at about 22.30 hours, while the deceased/V.Deva Kumar was riding his Motor Cycle bearing Reg.No.TN-22-BE-2354 from Kodambakkam to Thirisoolam along Jawaharlal Nehru 100 Feet Road, opposite to IOC Petrol Bunk, the bus bearing Reg.No.TN-01-N-6764, which was driven in a rash and negligent manner came from behind and dashed against the motor cycle, due to which, the deceased was thrown out and sustained grievous injuries and he died during the course of treatment on 11.06.2010. The respondents

herein/claimants, who are the parents of the deceased filed a claim petition for compensation in a sum of Rs.16,00,000/-.

3. In support of the claim, the mother of the deceased examined herself as P.W.1 and one S.Ravi, who is an eye-witness to the accident, was examined as P.W.2 and Exhibits P-1 to P-7 were marked. On behalf of the Transport Corporation, Chinnadurai, driver of the MTC bus was examined as R.W.1. However no documents were marked.

4. The Tribunal, taking note of the oral evidence of P.W.2 and Exhibits P.1 and P.2, held that due to the rash and negligent driving by the driver of the MTC bus, the accident had occurred and consequently, fixed the liability on the Transport Corporation to compensate the claimants.

5. As far as quantum of the compensation is concerned, based on the claim petition, wherein it is stated that the deceased is a Car Mechanic and Tourist Driver, the Tribunal pointed out that the driving license of the deceased is marked as Ex.P.3, which shows that the deceased is having LMV Driving License, however, no other documents were produced to prove that he is a Taxi Driver. The Tribunal thus notionally fixed the income at Rs.9,000/- per month. The age of the deceased was fixed at 28 years. Relying on the decision of the Hon'ble Supreme Court in Sarla Verma and Others Vs. Delhi Transport Corporation and another reported in 2009(2) TN MAC 1 (SC), wherein, it is held that where family of bachelor is large and dependent on income of deceased, deduction may be restricted to 1/3rd, in the case on hand, the Tribunal deducted 1/3rd towards personal expenses of the deceased and arrived at Rs.72,000/- as total annual income. Further, adopting the multiplier as 17 arrived at the pecuniary loss at Rs.12,24,000/-. ($\text{Rs.9,000} - \frac{1}{3} \times 12 = \text{Rs.72,000/-} \times 17 \text{ multiplier} = \text{Rs.12,24,000/-}$) Accordingly, the Tribunal passed the award granting compensation as below 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 17	Rs.12,24,000/-
2	Loss of consortium	Rs. 3,00,000/-
3	Funeral expenses	Rs. 25,000/-
	Total	Rs. 15,49,000/-

6. Insofar as the issue regarding negligence is concerned, the learned counsel for the appellant/Transport Corporation has no serious objection and hence, the same is confirmed.

7. The learned counsel for the appellant/transport corporation raised a serious objection with regard to the grant of compensation under the head "Loss of Consortium", since, the deceased is a bachelor.

8. After perusing the entire award, we are of the considered view that the submission made by the learned counsel for the appellant merits acceptance. However, it is seen that no amount is awarded under the head "Loss of love and affection" for the claimants. Hence, the award of compensation granted under the head "loss of consortium" is deleted and this Court awards Rs.1,50,000/- under the head "Loss of love and affection". Insofar as the amount awarded under the head "compensation towards pecuniary loss" is concerned, it is seen that before the Tribunal, no document has been filed to show that the income of the deceased is Rs.9000/- per month. In view of the same, we refix the income of the deceased at Rs.6,000/- per month and accordingly, the pecuniary loss is calculated as under:-

Rs.6,000/- x 12 = Rs.72,000/-

1/3rd deduction as the deceased family consists of 3 members

Rs.72,000 - 1/3 = Rs.24,000/-

Total Annual income = Rs.72,000/-

1/3rd deduction = Rs.24,000/-

Net Annual income = Rs.48,000/- x 17 multiplier

=Rs.8,16,000/-

Thus, compensation towards pecuniary loss to the dependents is refixed at Rs.8,16,000/-.

It is seen that the Tribunal had not granted any amount towards future prospects. Considering the age of the deceased at 28 years and the decision of the Apex Court in the case of Santosh Devi - vs. - National Insurance Company Ltd. and others reported in (212)6 SCC 421 in para 14, the future prospects can be pegged at 30%. While determining 30% towards future prospects, a sum of Rs.2,50,000/- is awarded towards future prospects. We confirm the amount of Rs.25,000/- granted under the head "Funeral Expenses".

9. Accordingly, the compensation awarded by the Tribunal stands modified as follows:

Sl. No.	Head	Amount granted by the Tribunal	Amount granted by this court
1	Loss of pecuniary benefits to the dependents of the deceased by adopting multiplier 17	Rs.12,24,000/-	Rs. 8,16,000/-

Sl. No.	Head	Amount granted by the Tribunal	Amount granted by this court
2	Future prospects (30%)	----	Rs. 2,50,000/-
3	Loss of consortium	Rs.3,00,000/-	---
4	Loss of love and affection (Rs.75,000 x 2)	----	Rs. 1,50,000/-
5	Funeral expenses	Rs.25,000/-	Rs. 25,000/-
1	Tota	Rs.15,49,000/-	Rs. 12,41,000/-

10. In the result, the Civil Miscellaneous Appeal is partly allowed as follows:-

- (i) The award of the Tribunal is reduced to Rs.12,41,000/- from Rs.15,49,000/-.
- (ii) The award amount will carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.
- (iii) This court by order dated 03.04.2015, directed the appellant/transport corporation to deposit the entire amount. From the said deposit, the claimants are entitled to withdraw the amount along with proportionate interest and the balance amount in deposit shall be withdrawn by the appellant/insurance company.
- (iv) The claimants are entitled to withdraw the award amount equally between them, by filing appropriate application before the Tribunal.
- (v) There will be no order as to costs in this appeal.
- (vi) Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
IV Court of Small Causes, Chennai.

2.The Section Officer,
V.R Section,
High Court,
Madras-104.

+1cc to M/S.P.Paramasivadoss, Advocate sR.27577

+2cc to M/S.N.M.Muthurajan, Advocate sr.26889

C.M.A.No.255 of 2015

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srg 16/06/2016



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