

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.12.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.2631 of 2016 and
C.M.P.No.18799 of 2016

The Managing Director,
State Express Transport Corporation Ltd.,
Pallavan Salai, Chennai. .. Appellant

Versus

1.Sudha
2.Minor Suganthi
3.Minor Suriya
4.Chinnapillai
(Respondents 2 and 3/ minors represented by
next friend natural guardian 1st respondent) ..
Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988 against the judgment and decree
dated 01.10.2015 made in M.C.O.P.No.13/2014 on the file of the
Motor Accidents Claims Tribunal, (Principal District Judge)
Villupuram.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

The Managing Director, Transport Corporation, Chennai,
being aggrieved over the impugned award dated 01.10.2015 made
in M.C.O.P.No.13/2014 on the file of the Motor Accident Claims
Tribunal, (Principal District Judge), Villupuram, awarding a
compensation of Rs.10,15,000/- as against Rs.20 lakhs,
towards loss of life of the sole breadwinner of the claimants'
family, aged about 39 years, who was hit by the offending
vehicle while walking on the road, has brought this appeal
challenging the quantum of compensation.

2.According to the claimants, on 14.08.2013 at about
03.30 hours, when the deceased Subramanian was proceeding from
his village to his land, the appellant's bus bearing
Registration No.TN-01-N-9586 coming from Trichy to Villupuram,
which was driven by its driver in a rash and negligent manner,
hit against the said Subramanian and due to the same, the
deceased sustained fatal injuries and died on the spot.
According to the claimants, the accident happened due to the
rash and negligent driving of the driver of the bus.

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3.Learned counsel appearing for the appellant/Transport
Corporation would submit that when the respondents claimed in

the claim petition that the deceased was only an agriculturist and wood broker and his monthly income was Rs.15,000/-, in the absence of any proof, the Tribunal ought not to have fixed a sum of Rs.7,000/- p.m. and as a result, the total amount of Rs.12,60,000/- awarded towards loss of dependency, is on the higher side. Therefore, the findings given by the Tribunal need interference.

4.Per contra, learned counsel for the claimants would submit that when a claim was made by the claimants stating that the deceased was earning a sum of Rs.15,000/-, the Tribunal has fixed only a sum of Rs.7,000/- as the notional monthly income of the deceased. He would further submit that the Tribunal has not awarded any amount towards future prospects. The Tribunal having fixed a sum of Rs.7,000/- as the notional monthly income of the deceased and having not come forward for addition of 50% to his actual salary towards future prospects, the Corporation ought not to have filed appeal.

5.As per the decision rendered by the Hon'ble Apex Court in SARLA VERMA AND OTHERS V. DELHI TRANSPORT CORPORATION AND ANOTHER reported in 2009 (2) TNMAC (SC), the learned Tribunal has awarded a sum of Rs.20,000/- towards consortium, a sum of Rs.10,000/- each to the claimants towards loss of love and affection and a sum of Rs.10,000/- towards funeral expenses. The above award of compensation under various heads for the loss of life of sole breadwinner of the claimants' family, aged about 39 years, while he was just walking on the road and hit by the bus belonging to the appellant/Transport Corporation does not call for interference. Secondly, the counter affidavit filed by the Transport Corporation before the Tribunal clearly admits the negligence on the part of the offending vehicle.

6.It is pertinent to refer to the relevant paragraph of the counter affidavit, which reads as under:

"5.This respondent stated that on 14.08.2013 at 3.30 a.m. the respondent bus registration No.TN-01-N-9586 was proceeding from Vilathikulam to Chennai near Asanur sipcot main road in front of the bus one vehicle was going and hence this respondent driver was overtaking the vehicle at that time the deceased crossed the main road suddenly."

The above stand of the appellant/Transport corporation that when the driver was over taking the vehicle, the deceased crossed the main road suddenly, clearly shows that the driver of the offending vehicle alone is responsible for causing the accident. Secondly, the Tribunal has rightly saddled the liability on the Corporation to pay the compensation.

6.As I mentioned above with regard to compensation,

although the Tribunal has fixed a sum of Rs.7,000/- as the notional monthly income of the deceased without any proof of his monthly income, no addition to his actual salary towards future prospects, this Court is not able to find any merit in the Civil Miscellaneous Appeal as the amount of compensation is also very reasonable. Accordingly, this Civil Miscellaneous Appeal fails and the same is dismissed. Consequently, connected M.P. is also dismissed.

7.Since the learned counsel for the appellant/Transport Corporation submitted that the appellant has deposited Rs.25,000/- towards statutory deposit, the balance amount is directed to be deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the claimants to move a petition before the learned Tribunal for withdrawing the said amount. In respect of minor shares, the first respondent being mother, is permitted to withdraw the accrued interest once in three months till they attain majority.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Principal District Judge)
The Motor Accidents Claims Tribunal,
Villupuram

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

+ 1 cc to Mr.K.J. Sivakumar, Advocate SR.71013

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