

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2016

C O R A M

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH,J.,
AND
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU,J.,

C.M.A.No.1753 of 2014

and

M.P.No.1 of 2014

The Managing Director
Tamil Nadu State Transport Corporation
Villupuram Division
Vellore Region
Vellore/

... Respondent/Appellant

Vs

1. S.Supriya
2. Minor Madesh
3. Minor S.Mahalakshmi

Minors 2 and 3 rep.by their mother
and natural guardian S.Supriya

4. A.Valarmathi

.... Petitioners/Respondents

Civil Miscellaneous Appeal filed under section 173 of the Motor Vehicles Act 1988, against the judgment and award dated 28.03.2013 passed by the learned II Additional District Judge [Motor Accident Claims Tribunal], Tiruvallur at Poonamallee in MCOP No.867 of 2011.

For Appellant Mr.S.Sairaman

For Respondents... Mr.K.Varadha Kamaraj
for RR1 to 3
R4- Not ready

J U D G M E N T

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

The State Transport Corporation is before this Court, challenging the award dated 28.03.2013 passed by the learned II Additional District Judge [Motor Accident Claims Tribunal], Tiruvallur at Poonamallee in MCOP No.867 of 2011.

2. The brief facts of the case is as follows:

(i) This is a case of fatal accident.

(ii) On 24.07.2011 at about 11.00 p.m., when the deceased was riding his motor cycle bearing Regn.No.TN-30-AJ-5758, the bus belonging to the appellant-Transport Corporation came in a rash and negligent manner and hit against the motor cycle, due to which, the deceased died on the spot.

(iii) The wife, minor children and the mother of the deceased went before the Motor Accident Claims Tribunal claiming compensation in a sum of Rs.10,00,000/-. To sustain their claim, the claimants examined P.Ws.1 and 2 and marked Exs.P1 to P4. On the side of the appellant no one was examined and no document was got marked. The Tribunal after considering the oral and documentary evidence adduced awarded compensation in a sum of Rs.24,80,500/- as follows:

Heads	Compensation awarded
Pecuniary Loss	Rs.24,48,000/-
Loss of consortium to the wife	Rs. 10,000/-
Loss of love and affection to two minor children	Rs. 10,000/-
Loss of love and affection to the mother	Rs. 2,500/-
Transport Expenses	Rs. 5,000/-
Funeral expenses	Rs. 5,000/-
Total	Rs.24,80,500/-

The said compensation awarded is under challenge before this Court, with the appellant-Transport Corporation seeking reduction.

3. The learned counsel representing the appellant fairly

states that they are mainly aggrieved at the quantum determined by the Tribunal towards pecuniary loss in a sum of Rs.24,48,000/-. In such circumstances, there is no need for this Court to go into the finding relating to negligence.

4. The learned counsel for the appellant submits that when no proof of income has been submitted by the claimants, the Tribunal has grossly erred in arriving at the pecuniary loss in a sum of Rs.24,48,000/- by fixing the monthly income of the deceased at Rs.15,000/-. He further submits that fixing the multiplier at 17 considering the age of the widow, is against the decision of the Hon'ble Apex Court in Sarla Verma vs. Delhi Transport Corporation [2009(6) SCC 121]. He would also submit that there are other lapses also on the part of the Tribunal in awarding the compensation. Accordingly, he prays for reducing the compensation awarded.

5. Per contra, learned counsel for the respondents/claimants contend that the Court below by taking into consideration the fact that the widow is aged only 24 years at the time of the accident and that she has to look after the aged mother of the deceased as well as two minor children and it will be very difficult for her to manage the entire family, has awarded the compensation, and therefore, the compensation awarded by the Tribunal, warrants no interference in this appeal.

6. We have heard the learned counsel for the respective parties.

7. It is seen from the records that the deceased was aged 27 years at the time of accident and he was working as a crane operator. In such circumstances, when no proof of income having been produced, we are of the view, fixing the monthly income of the deceased at Rs.12,000/- would meet the ends of justice. However, multiplier of 17 adopted by the Tribunal considering the age of the widow, who was 24 years at the time of accident is correct. In the above circumstances, after deducting 1/4th amount towards the personal expenses of the deceased, the pecuniary loss is arrived at Rs.18,36,000/-. The Tribunal has also awarded a sum of Rs.10,000/- to the widow towards loss of consortium; a sum of Rs.5,000/- each to the minor children towards loss of love and affection and a sum of Rs.2,500/- to the mother of the deceased and also a sum of Rs.5,000/- each towards transport expenses and funeral expenses. Except modifying the compensation awarded towards pecuniary loss, we are not inclined to interfere with regard to the compensation awarded under the other heads.

8. Accordingly, the compensation awarded by the Tribunal

is modified as follows:

(i) Towards pecuniary loss	- Rs.18,36,000/-
(ii) Loss of consortium to the widow/first respondent	- Rs. 10,000/-
(iii) Loss of love and affection to two minor children/ respondents 2 and 3	- Rs. 10,000/-
(iv) Loss of love and affection to the mother/4th respondent	-Rs. 2,500/-
(v) Transport Expenses	-Rs. 5,000/-
(vi) Funeral Expenses	-Rs. 5,000/-

Total compensation	Rs. 18,68,500/-
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The total compensation amount of Rs.18,68,500/- is rounded off to Rs.19,00,000/-[Rupees nineteen lakhs only], which shall carry interest at 7.5% p.a. from the date of claim petition till the date of deposit.

9. The compensation amount now modified is apportioned as follows:

(i) Widow/first respondent	- Rs.10,00,000/-
(ii) Minor children and mother [respondents 2 to 4]	- Rs. 3,00,000/- each

10. It is submitted that pursuant to the interim order passed by this Court in M.P.No.1 of 2014 dated 18.07.2014, the appellant-Transport Corporation has deposited 25% of the award amount together with accrued interest. It is further stated that as per the order dated 12.09.2014 passed by this Court in M.P.No.2 of 2014, the first respondent and the fourth respondent were permitted to withdraw their shares along with accrued interest.

11. In view of the above, the appellant-Transport Corporation is directed to deposit the balance amount as modified by this Court above with proportionate interest within a period of three months from the date of receipt of a copy of this order. On such deposit being made, the first and fourth respondents are entitled to withdraw their balance share along with accrued interest on making out appropriate application before the Tribunal. Insofar as the compensation apportioned to the share of the minor claimants, viz., second and third respondents are concerned, the same shall be deposited in a Nationalised Bank under re-investment scheme, till they attain

majority. The interest accrued thereon, shall be withdrawn by the first respondent/mother of the minor children once in three months.

12. With the above modification, this Civil Miscellaneous Appeal is allowed in part. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal
II Additional District Judge,
Tiruvallur at Poonamallee.

2. The Section Officer,
VR Section,
High Court, Chennai 104.

1 cc to Mr.K.Varadhakamaraj, Advocate, sr.23345

C.M.A.No.1753 of 2014

pvs co
kra 27.06.2016

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