

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2016

CORAM :

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

C.M.A.No.3519 of 2011 & M.P.No.1 of 2011

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division I
37, Mettupalayam Road,
Coimbatore ... Appellant

Vs.

1. Kemban
2. Kembasithi
3. Chinnasamy
4. Unnikrishnan
(R4 given up) ... Respondents

PRAYER : This appeal is filed under Section 173 of Motor Vehicles Act, against the fair and decreetal order dated 30.09.2009 made in M.C.O.P.No.825 of 2008 on the file of the learned Additional District Judge, Fast Track Court -I, Motor Accident Claims Tribunal, Erode.

For appellant : Mr.S.S.Swaminathan

For respondents: Mr.A.K.Kumarasamy,
for R1 and R2.

: R3- Service awaited.

: R4- Given up.

JUDGMENT

The Civil Miscellaneous Appeal is filed against the order dated 30.09.2009 made in M.C.O.P.No.825 of 2008 on the file of the Additional District Judge, Fast Track Court I, Motor Accident Claims Tribunal, Erode.

2. The claim petition is filed before the Additional District Judge, Fast Track Court I, Motor Accident Claims Tribunal, Erode. After hearing the arguments on both sides and

after perusing the evidence and documents adduced on either side finally awarded a sum of Rs.3,78,000/- as compensation together with 7.5% interest from the date of application till the date of deposit.

3. Aggrieved against the order passed by the trial Court, the appellant/Transport Corporation preferred this appeal.

4. Heard the learned counsel for the appellant and the learned counsel appearing for the respondents 1 and 2. This Court perused the materials produced on either side.

5. The learned counsel for the appellant mainly contended that the trial Court without considering the deduction for the personal expenses to the deceased as 50% erroneously calculated the damages. Further, the trial Court has not properly adopted the correct multiplier and the compensation awarded is very high and the compensation awarded has to be necessarily reduced.

6. The learned counsel for the respondents/claimants mainly contended that the trial Court after appreciating the entire facts and evidences adduced therein, rightly fixed the compensation by adopting proper multiplier method. Considering the above factual position, the trial court awarded just and fair compensation to the claimants. Hence, the learned counsel prays for dismissal of the appeal.

7. According to the learned counsel for the appellant/transport corporation, the trial court has wrongly adopted the multiplier method on the basis of the age of the deceased, which is erroneous and considering the age of the deceased multiplier 18 should be adopted. Admittedly, the deceased is a bachelor and hence, the personal expenses of the deceased shall be taken up as 50% and the compensation awarded under the other heads are not disputed herein. It has been further contended that the claimants of the deceased failed to prove the income of the deceased as Rs.6,000/- p.m. and the trial court has rightly calculated the income of the deceased as Rs.3000/- p.m., and after deducting his personal expenses a sum of Rs.2000/- p.m. has been taken up for calculating the monthly income.

8. It is admitted that the trial court after considering the age of the deceased and his earning capacity, calculated the income of the deceased at Rs.3000/- p.m. The monthly income of the deceased was Rs.3000/- p.m., after deducting 50% towards his personal expenses remaining 50% of Rs.1500 p.m has to be taken up as his contribution for monthly income, which comes to Rs.18,000/- p.a. (Rs.1500 x 12 =

Rs.18,000/-). This court is inclined to fix Rs.1500/- p.m. towards the monthly income by adopting the multiplier 18, which comes to Rs.3,24,000/- p.a. (Rs.18,000 x 18 = Rs.3,24,000/-). The respondents 1 and 2 are entitled for loss of their son (Rs.20,000/- each), totally 40,000/-. and for funeral expenses Rs.4000/- and for love and affection, each entitled for Rs.5000/- (totally Rs.10,000/-). It comes to Rs.3,78,000/-.

9. Hence, the respondents 1 and 2 are entitled for compensation of Rs,3,78,000/- from the appellant/transport corporation.

10. In the above circumstances, this Court finds no reason to interfere with the compensation awarded by the trial Court and the appeal filed by the appellant/transport corporation is liable to be dismissed and the same is hereby dismissed.

11. In the result, the Civil miscellaneous Appeal stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mrp

To

1.The Additional District Judge,
Fast Track Court I,
Motor Accident Claims Tribunal,
Erode.

2.The Section Officer
VR Section High Court Madras

+1 cc to Mr.S.S.Swaminathan Advocate sr 68708
+1 cc to Mr.A.K.Kumarasamy Advocate sr 68539

CMA.No.3519 of 2011

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