

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 23.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A. NO.622 OF 2016
and C.M.P.No.5155 of 2016

The Managing Director
Metropolitan Transport Corporation Ltd.,
Pallavan House, Anna Salai,
Chennai - 600 002.

..... Appellant/Respondent

- Vs -

1. Palayam
2. Kalaivani
3. Tamilvani
4. Minor.Sudha Vani
5. Minor. Sandhiya
6. Minor. Vinoth Kumar
(Minors rep. by their mother
and next friend 1st respondent herein)
7. Aarayee

..... Respondents/Claimants

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Award and decree dated 13.04.2015 passed by the Motor Accident Claims Tribunal (IV Judge, Small Causes Court, Chennai, made in M.C.O.P.No.2929 of 2012.

For Appellant : Mr.S.S.Swaminathan
For Respondents : Mr.Amar D.Pandiya

J U D G M E N T

(DELIVERED BY R.SUDHAKAR, J.)

Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents.

2. The appellant/Transport Corporation has filed the appeal challenging the Award dated 13.04.2015 passed by the Motor Accident Claims Tribunal (IV Judge, Small Causes Court, Chennai, made in M.C.O.P.No.2929 of 2012.

3. It is a case of fatal accident. On 08.06.2012 at about 13.30 hours, when the deceased Srinivasan was getting into the MTC Bus bearing Registration No.TN-01-N-5995 at Kaliyamman Koil Road, "E" Road junction bus stop, Koyambedu, Chennai, the driver of the bus suddenly taken the bus in a rash and negligent manner at a high speed, as a result, the deceased was thrown out and the wheel of the bus run over the deceased. Due to the said accident, the deceased Srinivasan died on the spot. Hence, the claimants, who are wife, aged 40 years, daughters, aged, 23 years, 20 years, 17 years and 16 years respectively, son, aged 14 years and mother, aged 65 years have filed claim petition claiming a sum of Rs.25,00,000/- as compensation. According to the claimants, the deceased was working as Security Supervisor in Apollo Security Services, Chennai and was earning a sum of Rs.12,750/- per month.

4. In support of the claim petition, the wife of the deceased was examined as P.W.1; one R.Manoharan was examined as P.W.2; one S.Narayanan was examined as P.W.3 and Exs.P-1 to P-8 were marked, the details of which are as follows:-

Ex.P-1	Copy of FIR
Ex.P-2	Copy of Death Certificate
Ex.P-3	Copy of Legal Heir Certificate
Ex.P-4	Copy of Charge Sheet
Ex.P-5	Copy of Postmortem Certificate
Ex.P-6	Authorisation letter
Ex.P-7	Employment and salary statement
Ex.P-8	Pay slip

5. On the side of the respondents, Mr.Mani, conductor of the Appellant/Transport Corporation bus was examined as R.W.1 and no document was marked.

6. The Tribunal based on the oral evidence of witnesses, the F.I.R. and also taking into account the documentary evidence and further there being no satisfactory evidence adduced on behalf of the appellant/Transport Corporation to refute the evidence as to the rash and negligent driving of the bus, came to the conclusion that the accident was caused due to the rash and negligent driving by the driver of the bus, and therefore, the liability was fixed on the appellant and consequently the appellant was directed to compensate the claimants. On this issue, learned counsel for the appellant has no serious objection with regard to the finding of the Tribunal as no material has been placed to come to a different conclusion from that of the conclusion arrived at by the Tribunal. Accordingly, the Tribunal awarded compensation under the following heads :-

Loss of dependency	-	Rs.14,97,600/- - (1,15,200 x 13)
Loss of consortium	-	Rs. 1,50,000/-
Loss of love and affection	-	Rs. 6,00,000/-
Funeral Expenses	-	Rs. 25,000/-
Total Compensation	-	Rs.22,72,600/-

7. In all, the Tribunal awarded a compensation of Rs.22,72,600/= with interest at the rate of 7.5% from the date of filing of petition, i.e, 11.6.2012 till the date of realization. Aggrieved by the said award, the appellant - Transport Corporation is before this Court by filing this appeal.

8. Learned counsel appearing for the appellant-Transport Corporation submitted that the monthly income fixed by the Tribunal is on the higher side and the loss of love and affection was granted by the Tribunal at Rs.1.00 lakh each is on the higher side. Per contra, it is submitted by the learned counsel for the respondents/claimants that taking note of the large number of dependents in the family and the age of the minors, the Tribunal had correctly awarded compensation and therefore, no interference is called for with the well considered finding of the Tribunal.

9. This Court has given its careful consideration to the above contentions advanced by either parties and also perused the materials available on record.

10. With regard to the contention of the learned counsel appearing for the appellant that the monthly income fixed by the Tribunal is on the higher side, we find that the Tribunal based on the salary certificate marked as Ex.P8 and the prevailing market situation, fixed the monthly income of the deceased at Rs.12,000/-. After deducting 1/5 towards personal expenses, the Tribunal had correctly arrived at the monthly contribution of the deceased to the family. With regard to the compensation awarded towards loss of love and affection and loss of consortium, we feel that the same is slightly on the higher side and hence, the same needs to be modified.

11. Accordingly, the compensation awarded by the Tribunal is modified as hereunder :-

	Compensation awarded by the Tribunal	Compensation awarded by this Court
Loss of dependency	Rs.14,97,600/- (1,15,200 x 13)	Rs.14,97,600/- (1,15,200 x 13)
Loss of consortium	Rs. 1,50,000/-	Rs. 1,00,000/-
Loss of love and affection	Rs. 6,00,000/-	Rs. 4,50,000/- (Rs.75,000/- each)
Funeral Expenses	Rs. 25,000/-	Rs. 25,000/-
Total Compensation	Rs.22,72,600/-	Rs.20,72,600/-

The interest awarded by the Tribunal at 7.5% per annum is not in dispute and the same is confirmed.

12. Accordingly, this Civil Miscellaneous Appeal is partly allowed with the above modification. Learned counsel appearing for the appellant seeks time to deposit the amount now ordered by this Court. The appellant is granted eight weeks time to deposit the amount now awarded by this Court, less the amount, if any already deposited, along with interest at the rate of 7.5% per annum. On such deposit being made, the major claimants are permitted to withdraw the amount along with proportionate interest and costs in the following manner: wife - Rs.14,97,600/-; major daughters - Rs.50,000/- each and mother - Rs.50,000/-. The balance amount along with proportionate interest and costs shall be deposited equally in the name of the minors in any one of the Nationalised Banks initially for a period of three years and to be renewable thereafter periodically till they attain majority. The mother of the minor claimants is permitted to withdraw the accrued interest once in three months directly from the bank. Consequently, connected miscellaneous petition is closed. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

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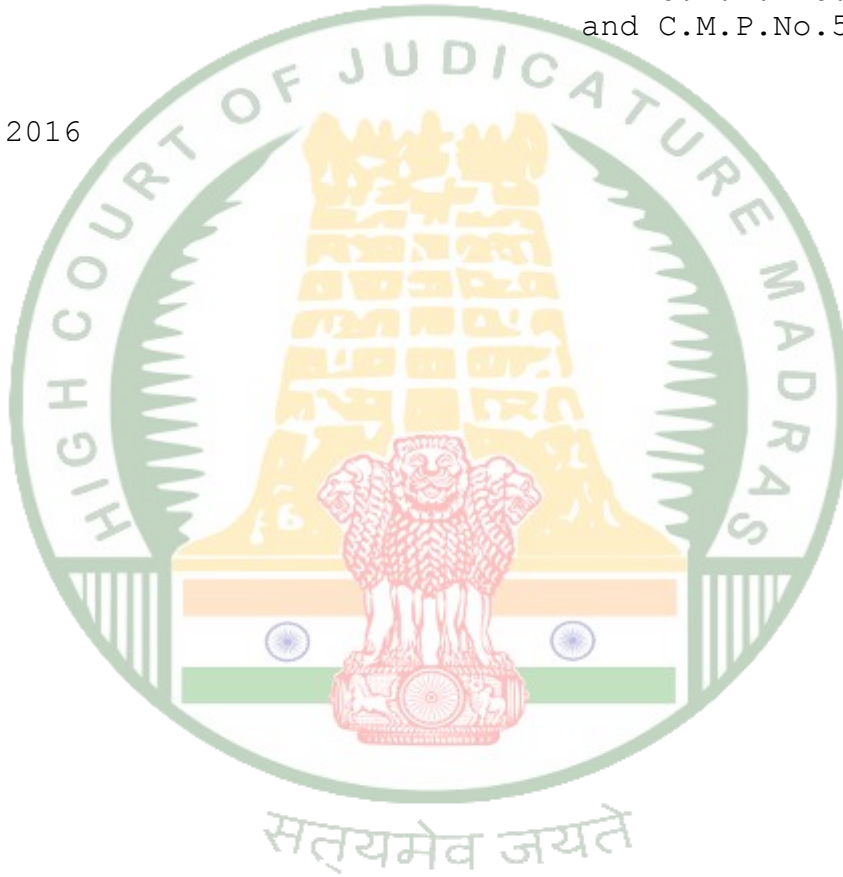
The Motor Accidents Claims Tribunal, IV Judge,
Small Causes Court, Chennai

+1 cc to Mr.S.S.Swaminathan, Advocate, sr.18468

+1 cc to Mr.S.Ravikumar, Advocate, sr.18612

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