

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 4.03.2016

CORAM

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

C.M.A.No.496 of 2016
C.M.P.No.4168 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Railway Station New Road,
Kumbakonam. ... Appellant/Respondent

Vs.

1. Mr.Thiraviarajan
2. Mrs.Shanmugathai ... Respondents/Claimants

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 6.2.2013 passed in M.C.O.P.No.209 of 2008 on the file of the Motor Accidents Claims Tribunal (Principal Subordinate Judge), Chengalpattu.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

(Judgment of the Court was delivered by R.SUDHAKAR,J.)

The Transport Corporation is on appeal, challenging the award dated 6.02.2013 passed in M.C.O.P.No.209 of 2008 on the file of the Motor Accidents Claims Tribunal (Principal Subordinate Judge), Chengalpattu.

2. It is a case of fatal accident. On 20.03.2008, when the deceased Arunkumar was riding his motorcycle (TVS Suzuki Max 100R) bearing Registration No.T.N.37U 8637 at 11.30 a.m., from Oorapakkam to go to S.R.M.Engineering College, on the left side of the GST Road, near Guduvanchery Bus Stand, a TNSTC Kumbakonam Limited Bus bearing Registration No.TN49 N 1748 which was driven by its driver in a rash and negligent manner, came in the same direction and dashed behind the motorcycle and thus caused

fatal injuries to the deceased Arunkumar, who died in the spot. Later, post mortem was conducted at C.M.C. Hospital, Chengalpattu. The deceased was a student and he was studying 4th year B.Tech at S.R.M.University, S.R.M. Nagar, Potheri and he was selected and got an appointment in campus interview, as Programmer Analyst Trainee in Cognizant Technology Solutions India Private Limited, Chennai and his annual income was fixed as Rs.3,00,500/- The claimants, who are the parents of the deceased Arunkumar aged about 53 and 52 years respectively, have filed the claim petition seeking compensation of Rs.40,00,000/-.

3. In support of the claim, the mother of the deceased Arunkumar was examined as P.W.1; a co-student by name Sathiskumar, was examined as P.W.2; one Madhavan, who is stated to be the eye witness to the accident was examined as P.W.3 and Exs.P-1 to Ex.P-14 were marked, the details of which are as follows:-

Ex.No.	Details
P1	Certified copy of the FIR Report
P2	Postmortem Report
P3	Death Certificate
P4	Legalheirship Certificate
P5	Driving Licence
P6	Higher Secondary Mark Certificate
P7	SRM Institute of Science and Technology Mark Sheets
P8	Sports Certificates
P9	Appointment Letter issued by Cognizant
P10	Copy of Secondary School Leaving Certificate (Shanmugathai)
P11	Copy of Secondary School Leaving Certificate (Thiraviarajan)
P12	Pay Slip of Sathiskumar
P13	Copy of Employee Identity Card of Sathiskumar
P14	Copy of B.Tech Degree Certificate of Sathiskumar

On behalf of the Transport Corporation, neither oral nor documentary evidence was adduced.

4. The Tribunal based on the oral evidence of the witnesses, and the F.I.R. and taking into consideration that the deceased

Arunkumar had a valid driving licence to drive the motorcycle, came to conclusion that the driver of the Transport Corporation bus had driven the bus in a rash and negligent manner and was responsible for the accident and consequently liability was fixed on the appellant Transport Corporation 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 by the Tribunal.

5. Based on the oral and documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of income (12,521 x 12 x5) + (18793x12x11)	Rs.32,31,936/-
2	Funeral Expenses	Rs. 25,000/-
3	Transportation	Rs. 5,000/-
4	Damages to Clothing and articles	Rs. 2,000/-
5	Loss of Estate	Rs. 1,00,000/-
6	Loss of Love & Affection	Rs. 1,00,000/-
	Total	Rs.34,63,936/-

6. The objection raised by the learned counsel appearing for the appellant is that the quantum of compensation awarded by the Tribunal is exorbitant.

7. Insofar as the quantum of compensation is concerned, the Tribunal considering Ex.P9, appointment letter, had fixed the income at Rs.12,521/- after giving deduction of 50% towards personal expenses and by adopting proper multiplier of 16, arrived at a sum of Rs.7,51,260/- as loss of income for the first five years. Further, the Tribunal, on considering the evidence of PW2, a co-student of the deceased Arunkumar to the effect that he gets a salary of Rs.37,585/- as evidenced by Ex.P12, considered the income at Rs.18,793/- per month for the remaining 11 years and arrived a sum of Rs.24,80,676/- and thus, awarded a total sum of Rs.32,31,936/- towards loss of income. Considering the academic exposure as spoken by the co-student viz., PW2, we feel that the income arrived at by the Tribunal is appropriate. In our considered view, the Tribunal has awarded very reasonable amounts on other heads viz., Rs.25,000/- towards funeral expenses, Rs.5000/- towards transport to Hospital, Rs.2000/- towards damages to clothes, Rs.1,00,000/- each under

the heads loss of estate and loss of love and affection. Hence, we do not find any reason to interfere with the award passed by the Tribunal.

8. There is no serious objection in respect of the interest granted at 7.5% per annum.

9. Accordingly, the compensation awarded by the Tribunal is confirmed. The Civil Miscellaneous Appeal is dismissed. The appellant is granted eight weeks time to deposit the award amount with interests and accrued interests after deducting the amount, if any, already deposited. On such deposit, the respondents/claimants are permitted to withdraw the same. There will be no order as to costs in this appeal. The connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sl/ssk.

To

The Motor Accidents Claims Tribunal
(Principal Subordinate Judge),
Chengalpattu.

+lcc to Mr.D.Venkatachalam, Advocate, S.R.No.14516

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SV(CO)
CA(21/03/2016)

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