

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.631 OF 2016
and C.M.P.No.5162 of 2016

The Managing Director
Tamil Nadu State Express Transport Corporation,
Pallavan Salai,
Chennai - 600 002.

.... Appellant/Respondent

- Vs -

1. D.Shanthi
2. D.Jeyaprakash (Minor)
(Minor rep. by his mother
and next friend 1st respondent)
3. P.Jebakani

.... Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act as against the Award and decree dated 05.06.2015 passed by the Motor Accident Claims Tribunal (IV Judge, Small Causes Court), Chennai, made in M.C.O.P.No.4650 of 2010.

For Appellant : Mr.K.J.Sivakumar

For Respondents : Mr.K.Surya Narayanan

WEB COPY
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 05.06.2015 passed by the Motor Accident Claims Tribunal (IV Judge, Small Causes Court), Chennai, made in M.C.O.P.No.4650 of 2010.

3. It is a case of fatal accident. On 02.01.2010 at about 04.30 hours the deceased P.Durairaj along with his wife Shanthi was travelling in a bus bearing Registration No.TN-01-N07165 proceeding towards Chennai in Trichy Chennai Highways. It is stated that the said bus was driven by its driver in a rash and negligent manner and hit against a lorry bearing Registration No.PY-03-4744 which was proceeded in the same direction. As a result, the deceased sustained multiple fractures and died on the spot and his wife sustained injuries. Hence, the claimants, who are wife, aged 30 years, son, aged 9 years and mother, aged 62 years have filed claim petition claiming a sum of Rs.10,00,000/- as compensation. According to the claimants, the deceased was working as Manager in charge of Akash Construction and was earning a sum of Rs.9,500/- per month.

4. In support of the claim petition, the wife of the deceased was examined as P.W.1 and Dr.T.S.Kalkura was examined as P.W.2 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 Postmortem Certificate
Ex.P-3	Copy of death Certificate
Ex.P-4	Copy of legal heir certificate
Ex.P-5	Salary Certificate
Ex.P-6	Discharge Summary
Ex.P-7	X-ray
Ex.P-8	Disability Certificate

5. On the side of the respondents, Mr.M.Siva Suriyan, 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.8,77,500/- (58,500 x 15)
Loss of consortium	-	Rs.2,00,000/-
Loss of love and affection	-	Rs.2,00,000/-
Funeral Expenses	-	Rs. 25,000/-
Total Compensation	-	Rs.13,02,500/-

7. In all, the Tribunal awarded a compensation of Rs.13,02,500/= with interest at the rate of 7.5% from the date of numbering of the petition, i.e., 13.12.2010 till the date of realization and no interest for the dismissal for default period from 23.10.2013 to 13.4.2015. 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 age of the dependents in the family and the age of the minor, 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 even though the salary certificate was marked as Ex.P5, the Tribunal found that there was no proof for the said income and hence, taking into consideration the prevailing market situation, fixed the monthly income of the deceased notionally at Rs.6,000/-. After deducting 1/3rd towards personal expenses, the Tribunal had correctly arrived at the monthly contribution of the deceased to the family. With regard to the compensation awarded on other heads, we feel that the compensation awarded by the Tribunal is just and reasonable. The interest awarded by the Tribunal at 7.5% per annum is not in dispute and the same is confirmed.

11. Accordingly, finding no merits this Civil Miscellaneous Appeal stands dismissed. Learned counsel appearing for the appellant seeks time to deposit the award amount. The appellant

is granted eight weeks time to deposit the award amount, less the amount, if any deposited already, along with interest and costs. On such deposit being made, the major claimants are permitted to withdraw the amount as apportioned by the Tribunal. The share of the minor shall be deposited in the name of the minor in any one of the Nationalised Banks initially for a period of three years and to be renewable thereafter periodically till he attains majority. The mother of the minor claimant 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 (CS-IV)

//True Copy//

Sub Assistant Registrar

sl

To

1. The IV Judge,
Motor Accidents Claims Tribunal
Small Causes Court, Chennai
2. The Record Keeper
V.R. Section
High Court, Madras.

+1 cc to Mr.K.J.Sivakumar, Advocate, sr.18562
+1 cc to Mr.K.Suryanarayanan, Advocate, sr.18838

सत्यमेव जयते

C.M.A. NO.631 OF 2016
and C.M.P.No.5162 of 2016

kji co
kra 22.04.2016

WEB COPY