

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 28.03.2016

CORAM

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

C.M.A. NO.647 OF 2016
and C.M.P.No.5314 of 2016

The Managing Director,
State Express Transport
Corporation (Tamilnadu)
Pallavan Salai, Chennai.

.... Appellant/Respondent

- Vs -

1. Mrs.Prema
2. R.Stephen
3. S.Rejin
4. S.Robin

.... Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the Award and decree dated 31.08.2015 passed by the Motor Accident Claims Tribunal (V Judge, Small Causes Court), Chennai, made in M.C.O.P.No.3972 of 2010.

For Appellant : Mr.K.J.Sivakumar
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 31.08.2015 passed by the Motor Accident Claims Tribunal (V Judge, Small Causes Court), Chennai, made in M.C.O.P.No.3972 of 2010.

3. It is a case of fatal accident. On 02.10.2010 at about 03.00 hours, when the deceased S.Reegan was proceeding from North to South at Koyambedu Suburban bus stand, at 2nd platform entrance, the bus belonging to the appellant Transport Corporation bearing Registration No.TN 01 N 5476 came in a rash and negligent manner in the same direction and hit against the deceased. As a result, the deceased was thrown out and the

wheel of the bus run over the deceased, due to which the deceased died on the spot. Hence, the claimants, who are mother, aged 45 years, father, aged 51 years, brothers, aged 20 and 19 respectively have filed claim petition claiming a sum of Rs.20,00,000/- as compensation. According to the claimants, the deceased was a Captain - cum - Supervisor in a Hotel and was earning a sum of Rs.10,000/- per month.

4. In support of the claim petition, the mother of the deceased was examined as P.W.1; one Rajasekar, was examined as P.W.2 and one Mr.Mohanraj was examined as P.W.3 and Exs.P-1 to P-11 were marked, the details of which are as follows:-

Ex.P-1	Copy of FIR
Ex.P-2	Charge Sheet
Ex.P-3	Postmortem Certificate
Ex.P-4	Death Certificate
Ex.P-5	Legal Heir Ship Certificate
Ex.P-6	Hotel Management & Catering Technology Diploma Certificate
Ex.P-7	Authorization Letter
Ex.P-8	Deceased Appointment Letter
Ex.P-9	Deceased Job Confirmation Letter
Ex.P-10	Deceased Job related document
Ex.P-11	Deceased Pay Slip

5. On the side of the respondents, neither any witness was examined nor any 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.20,52,000 (Rs.9,500x12x18)
Loss of Love and affection	-	Rs. 1,00,000/-
Loss of expectation of life	-	Rs. 1,00,000/-

Funeral Expenses	-	Rs. 50,000/-
Loss of Estate	-	Rs. 25,000/-
Total Compensation	-	Rs.23,27,000/-

7. In all, the Tribunal awarded a compensation of Rs.23,27,000/= with interest at the rate of 7.5% from the date of the petition till the date of deposit. 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 there is a calculation error in the monthly contribution of the deceased to the family fixed by the Tribunal and the compensation granted towards funeral expenses 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, 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 there is a calculation error in the monthly income fixed by the Tribunal, we find that the Tribunal taking into consideration the pay slip of the deceased Ex.P.11, fixed the monthly income of the deceased at Rs.11,300/- per month. By adding 50% towards future prospects, the Tribunal fixed the monthly income of the deceased at Rs.16,950/- rounded off to Rs.17,000/-. There is no dispute with regard to the fixation of the monthly income by the Tribunal. However, the Tribunal by deducting 50% towards personal expenses, fixed the contribution to the family at Rs.9,500/- instead of Rs.8,500/-. Learned counsel appearing for the claimants has not disputed the same. Hence, the monthly contribution of the deceased to the family is fixed at Rs.8,500/-. Accordingly, the compensation towards loss of dependency comes to Rs.8,500/- x 12 x 18 = Rs.18,36,000/-. With regard to the compensation awarded on funeral expenses, we feel that the same is on the higher side and hence the same is reduced to Rs.25,000/-. As far as 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, the award of the Tribunal stands modified as follows:

	Compensation awarded by the Tribunal	Compensation awarded by this Court
Loss of dependency	Rs.20,52,000 (Rs.9,500x12x18)	Rs.18,36,000/- (Rs.8,500x12x18)
Loss of Love and affection	Rs. 1,00,000/-	Rs. 1,00,000/-
Loss of expectation of life	Rs. 1,00,000/-	Rs. 1,00,000/-
Funeral Expenses	Rs. 50,000/-	Rs. 25,000/-
Loss of Estate	Rs. 25,000/-	Rs. 25,000/-
Total Compensation	Rs.23,27,000/-	Rs.20,86,000/-

12. In the result, this Civil Miscellaneous Appeal stands disposed of as follows:

(i) The award of the Tribunal is reduced to Rs.20,86,000/- from Rs.23,27,000/-

(ii) The interest awarded by the Tribunal at 7.5% per annum stands confirmed.

(iii) Learned counsel appearing for the appellant seeks time to deposit the award amount now ordered by this Court.

(iv) The appellant is granted eight weeks time to deposit the award amount now ordered by this Court, less the amount, if any deposited already, along with interest and costs.

(v) On such deposit being made, the claimants are permitted to withdraw the amount now ordered by this Court as follows:

Mother and father - 30% each

Brothers - 20% each

(vi) Consequently, connected miscellaneous petition is closed. However, in the circumstances of the case, there shall be no order as to costs.

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Sd/-

Assistant Registrar(V)

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Sub Assistant Registrar

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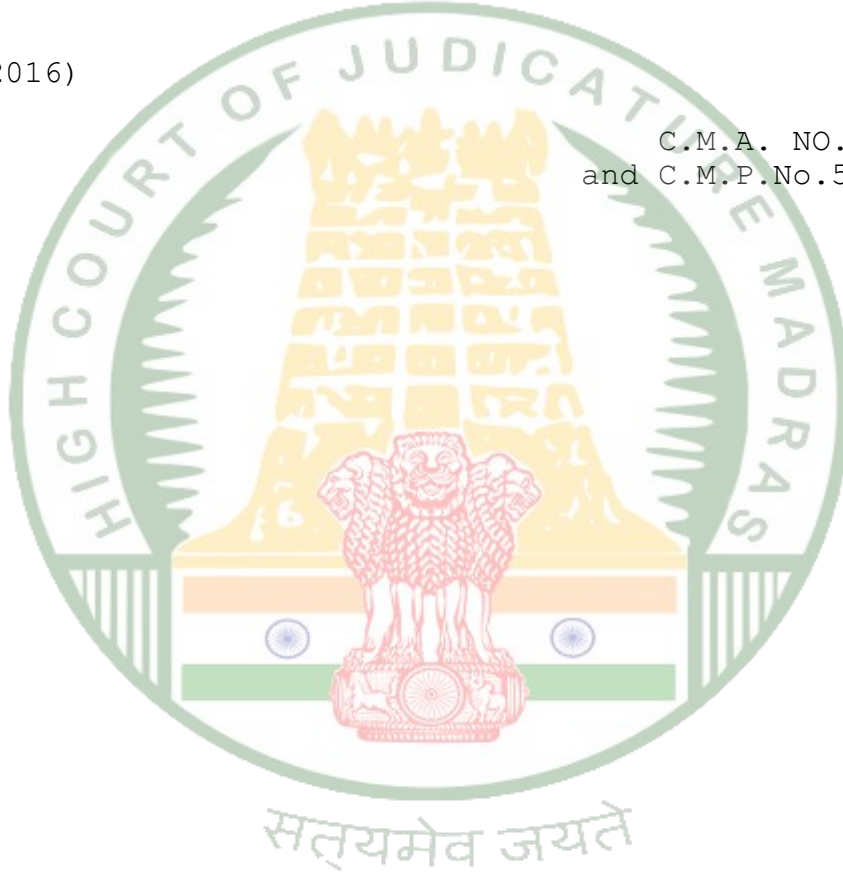
To

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

+lcc to Mr.M. Selvam, Advocate, S.R.No.19213
+lcc to Mr. K.J. Sivakumar, Advocate, S.R.No.19149

CA(CO)
EU(29/04/2016)

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