

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.660 OF 2016
and
C.M.P.No.5431 of 2016

Tamil Nadu State Transport Corporation (VPM) Ltd.,
rep. by its Managing Director,
No.3/137, Salamedu
Vazhuthareddy Post,
Villupuram Taluk
PIN- 605 602. ... Appellant/Respondent

- Vs -

1.Mrs.Jayanthi
2.Baby Lakshitha
(Minor rep. by her mother
and next friend 1st respondent - Jayanthi)
3.Mrs.P.Kanagam
4.V.Pattani ... Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act against the Award and decree dated 26.08.2015
passed by the Motor Accident Claims Tribunal (VI Judge, Small
Causes Court), Chennai, made in M.C.O.P.No.3504 of 2013.

For Appellant : Mr.S.Sairaman

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 26.08.2015 passed by the Motor
Accident Claims Tribunal (VI Judge, Small Causes Court),
Chennai, made in M.C.O.P.No.3504 of 2013.

3. It is a case of fatal accident. On 12.08.2012 at about 04.15 hours, when the deceased P.Ramesh was driving a lorry bearing Registration No.TN-73-A-3339 at ECR Road, near Anumanthai Tollgate, the bus belonging to the appellant Transport Corporation came in a rash and negligent manner in the opposite direction and hit against the lorry driven by the deceased. As a result, the deceased sustained multiple injuries and admitted in JIPMER Hospital, where, he died on 19.8.2012. Hence, the claimants, who are wife, aged 28 years, minor daughter, aged 7 years, mother, aged 52 years and father, aged 64 years have filed claim petition claiming a sum of Rs.35,00,000/- as compensation. According to the claimants, the deceased was a Heavy Vehicle driver and was earning a sum of Rs.15,000/- per month.

4. In support of the claim petition, the wife of the deceased was examined as P.W.1; one Shankar, who is stated to be eye witness to the accident, was examined as P.W.2 and one Mr.Arul was examined as P.W.3 and Exs.P-1 to P-10 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 Driving Licence of the deceased
Ex.P-5	Authorisation letter of PW3
Ex.P-6	Salary Certificate of the deceased issued by Pioneer Transport Pvt. Ltd.
Ex.P-7	Salary slips for the months of May, June & July, 2012
Ex.P-8	Rough Sketch
Ex.P-9	Copy of Charge sheet
Ex.P-10	Copy of Postmortem Certificate

5. On the side of the respondents, Mr.J.Venkataraman, driver 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.27,54,000/- (1,72,125 x 16)
Loss of consortium	-	Rs. 1,00,000/-
Loss of love and affection & mental agony	-	Rs. 2,00,000/-
Funeral Expenses	-	Rs. 25,000/-
Total Compensation	-	Rs.30,79,000/-

7. In all, the Tribunal awarded a compensation of Rs.30,79,000/= 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 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.2.00 lakhs is also 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 the Tribunal taking into consideration the evidence of P.W.3, Accountant of Pioneer Transport Pvt. Ltd., in which deceased was working and the nature of injuries sustained, fixed the monthly income of the deceased at Rs.12,750/-. After deducting 1/4 towards personal expenses, the Tribunal had correctly arrived at the monthly contribution of the deceased to the family. Further the Tribunal after following the decision in the case of Sarla Verma and others V. Delhi Transport Corporation and another reported in [2009 (6) SCC 121] granted future prospects and deducted standard deduction towards income tax. 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 she 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 III)

//True Copy//

Sub Assistant Registrar

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To

The Registrar
Motor Accidents Claims Tribunal
Small Causes Court, Chennai.

+lcc to Mr.S.Sairaman, Advocate, S.R.No.18591
+lcc to Mr.S.RaviKumar, Advocate, S.R.No.18614

C.M.A. NO.660 OF 2016
and
C.M.P.No.5431 of 2016

GJ(CO)
CA(25/05/2016)