

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2016

CORAM

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

C.M.A.No. 669 of 2016
and
C.M.P.No.5475 of 2016

The Managing Director
Tamil Nadu State
Transport Corporation Ltd.,
Kancheepuram. ... Appellant/Respondent

vs.

1. G. Muthammal
2. Minor G. Venkatesan
3. Minor G. Govindharaj
4. Minor G. Perumal
(2 to 4 Minors rep. by their mother
and natural guardian -1st respondent)
... Respondents/Petitioners

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 09.03.2015 passed in M.C.O.P.No.3 of 2012 on the file of the Motor Accidents Claims Tribunal (Subordinate Court) Tiruttani.

For Appellant : Mr.P.Paramasivadoss

For Respondents

JUDGMENT

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

The Transport Corporation is on appeal challenging the Judgment dated 09.03.2015 passed in M.C.O.P.No.3 of 2012 on the file of the Motor Accidents Claims Tribunal (Subordinate Court) Tiruttani.

2. Heard Mr. P. Paramasivadoss, learned counsel for the appellant/ Transport Corporation and perused the materials available on record.

3. It is a case of fatal accident. On 19.11.2011 at about 5.30 p.m., when the deceased Govindasamy, aged about 37 years was riding a Bajaj Platina motor cycle bearing Registration No.TN 20 BB 3117 from K. K. Chatram to Kanchipadi, near Gulur P.P. Pillai Memorial, on the Tiruvallur to Tiruttani Road, the appellant bus bearing Registration No. TN 21 N 1365, which was driven in a rash and negligent manner, dashed against the deceased motor cycle and caused the accident, due to which, the deceased sustained fatal injuries and died on the spot. The claimants, who are wife, children of the deceased have filed a claim for compensation for a sum of Rs.15,00,000/-.

4. In support of the claim, the wife of the deceased was examined as P.W.1; one Thirunavukarasu, an eye witness was examined as P.W.2 and Mr. Saravanan, employer of the deceased was examined as P.W.3. and Exs.P-1 to Ex.P.10 were marked, the details of which are as follows:-

Ex.No.	Details
P1	Copy of FIR
P2	Copy of charge sheet
P3	Copy of the post mortem certificate
P4	Death Certificate
P5	Copy of Legal Heirs Certificate
P6	Copy of Driving License
P7	Copy of RC Book
P8	Salary Certificate
P9	Copy of Lorry RC Book Reg.No. TN 20 BB 9900
P10	Copy of Lorry RC Book Reg.No. TN 20 BC 1837

On behalf of the Transport Corporation, no witness was examined and no document was marked before the Tribunal.

5. The Tribunal based on the oral evidence of the witnesses, the F.I.R. and also taking note of the fact that the deceased was having valid driving licence to drive the two wheeler came to the conclusion that the driver of the lorry was rash and negligent and was responsible for the accident and consequently liability was fixed on the Transport Corporation. 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.

6. 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	Dependency	Rs.12,15,000.00
2	Loss of Consortium	Rs. 50,000.00
3	Loss of love and affection	Rs. 1,00,000.00
4	Mental Agony	Rs. 50,000.00
5	Funeral Expenses	Rs. 15,000.00
	Total	Rs.14,30,000.00

7. Insofar as the compensation is concerned, based on the categorical evidence of P.W.3, Saravanan, the Tribunal fixed the salary of the deceased as Rs.9,000/-, which is very reasonable and is justified.

8. The Tribunal based on the Apex Court's judgment in Sarla Verma's case and in view of the large family that the deceased was supporting, deducted 1/4th towards his personal expenses, which appears to be justified. The compensation granted under the heads loss of consortium, loss of love and affection and other heads, considering the age of the widow wife and minor sons, is fair and reasonable.

9. Considering the age of the deceased, at the time of accident, namely, 37 years, the Tribunal adopted 15 multiplier in consonance of the Apex Court's decision in Sarla Verma - vs. - Delhi Transport Corporation, 2009(2) TNMAC 1 (SC). Therefore, this Court finds no justification to interfere with the quantum of compensation awarded by the Tribunal to the tune of Rs.14,30,000/-.

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

11. In the above circumstances, finding no merit, the Civil Miscellaneous Appeal is dismissed.

12. The appellant Transport Corporation is directed to deposit the entire award amount, with interest and costs, less the amount already deposited, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the major claimants/ 1st and 2nd respondents are permitted to withdraw their share as apportioned by the Tribunal. The share of the minors/ 3rd and 4th respondents shall

continue to be in deposit till they attain majority and the 1st respondent is permitted to withdraw interest accruing on such deposit once in three months. There will be no order as to costs. Connected miscellaneous petition is also closed.
avr

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

The Subordinate Judge,
(Motor Accidents Claims Tribunal)
Tiruttani.

+ 1 cc to M/s.P.Pramasivadoss, Advocate SR 20325

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