

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2016

CORAM

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

C.M.A.No.756 of 2016
and C.M.P.No.6192 of 2016

The General Manager
Tamil Nadu State Transport Corporation Ltd.,
Thirumayam Salai, Pudukottai. Appellant/Respondent

vs.

1. K.Muthuramu
2. Thenmozhi
3. M.Balasubramanian
4. Miss.Ganga Rani ..Respondents/Petitioners

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 26.02.2015 passed in M.C.O.P.No.513 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur

For Appellant : Mr.V.S.Vijay Veliappan

JUDGMENT

(Judgment of the Court was delivered by S.VAIDYANATHAN,J)

The Insurance Company has preferred this Civil Miscellaneous Appeal challenging the Judgment and decree dated 26.02.2015 passed in M.C.O.P.No.513 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur.

2. It is a case of fatal accident. On 01.03.2013, when the deceased Pandi Mari was riding his Hero Honda Two Wheeler motorcycle bearing Registration No.TN 63-U-9726 on Thirumayam-Rangiyam road on the extreme left side, at about 01.20 p.m., when he was proceeding at the place near Bairavar Koil at Mela Thurvasapuram, the Government Bus, bearing Registration No.TN-01-N-4005 belonging to the respondent, which was proceeding on the above said road from Ponnamaravathi towards Thirumayam, in a rash and negligent manner, dashed against the deceased, thereby, the deceased sustained multiple grievous injuries all over the body. Immediately he was taken to the hospital for treatment and was treated as inpatient from 01.03.2013 to 03.03.2013, however he was succumbed to the injuries on 03.03.2013. The

parents and the brother and sister of the deceased who are the claimants have filed a claim for compensation for a sum of Rs.50,00,000/-.

3. In support of the claim, Muthuraman, father of the deceased was examined as P.W.1; one Gurusamy was examined as P.W.2. And one Chandrasekar, Executive client Service was examined as P.W.3 and Exs.P-1 to Ex.P.22 were marked, the details of which are as follows:-

Ex.No.	Details
P1	xerox copy of FIR
P2	Xerox Copy of the Postmortem certificate
P3	Certificate issued to the deceased Pandi Mari by the Kauvery Hospital, Trichy
P4	Death Certificate
P5	Xerox copy of the legal heirship certificate
P6	Xerox copy of the driving licence of the deceased
P7	Xerox copy of transfer-cum-conduct certificate
P8	Xerox copy of B.Sc. Degree statement of marks of the deceased
P9	Xerox copy of B.Sc. Degree certificate
P10	Authorization letter of Global InnovSource Solutions Pvt. Ltd.
P11	I.D.Card of P.W.3 issued by Global InnovSource Solutions Pvt. Ltd.
P12	Xerox copy of Employment form of the deceased
P13	Xerox copy of joining report
P14	Xerox coy of Work Assignment letter
P15	Xerox coy of Transfer-cum-Conduct certificate
P16	Xerox copy of Experience certificate issued by M/s Excellent Industrial Instruments, Chennai 600 049
P17	Xerox copy of Payslip of the deceased
P18	Xerox copy of Company profile
P19	Xerox copy of Employment details available in the company
P20	Xerox copy of registration of company
P21	Xerox copy of change of name of the company
P22	Xerox copy of PAN card of the company

On behalf of the Insurance Company, no document was marked, however, Subramanian, driver of the bus was examined as R.W.1.

4. The Tribunal based on the oral evidence of the witnesses, the F.I.R. and taking note of the fact that the deceased was having valid driving licence to drive the two wheeler came to conclusion that due to the rash and negligent driving of the driver of the offending vehicle the accident had occurred and he alone was responsible for the accident and consequently liability was fixed on the appellant, to compensate the claimants.

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	Rs.16,46,280/-
3	Loss of love and affection to claimants	Rs. 40,000/-
4	Transport charges	Rs. 10,000/-
5	Funeral expenses	Rs. 10,000/-
6	Loss of Estate	Rs. 10,000/-
	Total	Rs.17,16,280/- rounded off to Rs.17,16,000/-

6. The learned counsel for the appellant would submit that awarding a compensation of a sum of Rs.17,16,000/- towards the death of a 26 year old, who was working as Area Tower Technician at Global InnovSource Solutions Pvt. Ltd., in favour of his parents and his brother and sister is highly excessive and unsustainable. According to the learned counsel, the multiplier fixed by the Tribunal is very high when compared with the Motor Vehicles Act,. Hence, the learned counsel for the appellant has sought for allowing of the Civil Miscellaneous Appeal.

7. This Court heard the submissions of the learned counsel for the appellant and perused the materials available on record.

8. According to the claimants, the deceased Pandi Mari was working as a Area Tower Technician at Global InnovSource Solutions Private Limited and was earning a sum of Rs.15,000/- per month. According to R.W.1 by placing reliance on Ex.P.17, the income of the deceased at the time of Accident was Rs.8,069/-. Hence, the Tribunal, on perusing both oral and documentary evidence, fixed the monthly income of the deceased at Rs.8,070/- and by adding 50% towards future prospects and by

deducting 1/3rd towards personal expenses, since there are four claimants and since the age of the deceased at the time of accident was 26 years, by adopting 17 multiplier, has correctly calculated the loss of income. Further, a perusal of the Judgment of the Tribunal reveals that the compensation granted under the other heads also appear to be reasonable. Hence, we find no reason to reduce the compensation awarded by the Tribunal.

9. There is no serious objection with respect the interest granted at 7.5% per annum.

10. In the above circumstances, finding no merit, the Civil Miscellaneous Appeal is dismissed. The appellant is directed to deposit the entire award amount with proportionate interest to the credit of M.C.O.P.No.513 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur, within a period of eight weeks from the date of receipt of a copy of this order and on such deposit being made, the claimants are permitted to withdraw their respective shares, as apportioned by the Tribunal, by filing appropriate applications before the Tribunal. There will be no order as to costs in this appeal. Connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

To

1.The Motor Accidents Claims Tribunal
Principal District Judge, Perambalur.

2. The Section Officer,
V.R.Section, High Court,
Madras.

+ 1 cc to Mr.V.S.Vijay Veliappan, Advocate SR 22084

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