IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2016

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.782 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
(Kumbakonam Division-I) Ltd.,
Railway Station New Road
Kumbakonam 612 001

... Appellant/Respondent

vs.

1. S.Rajeshwari
2. S.Krishnamoorthy
3. S.Vanniyarkodi
4. S.Gunasundari
5. K.Chinnammal ...Respondents/respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 17.08.2015 passed in M.C.O.P.No.764 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore in M.C.O.P.No.764 of 2014 dated 17.08.2015.

2. It is a case of fatal accident. On 31.12.2013 at about 04.15 p.m., while the deceased K.Sagadevan, was riding as a pillion rider in the motorcycle bearing registration No.TN.31.AD.6149, at his extreme left side of the road at Kumarakudi, the Bus bearing Registration No.TN-68.N.0272 TNSTC, which was driven in a rash and negligent manner, hit against the deceased Sagadevan, due to which, he was thrown out of his motorcycle and sustained grievous injuries and multiple

fractures all over his body and head. Immediately, the deceased was taken to and admitted in Rajah Muthiah Medical College Hospital, Annamalai Nagar, however, he died on 08.01.2014 inspite of the best treatment given to him. The wife, children and the mother, who are the claimants have filed a claim petition before the Tribunal seeking compensation of a sum of Rs.25,00,000/-.

3. The Tribunal based on the oral evidence of the witnesses, and the documentary evidence, granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of dependency	Rs.4,05,000/-
2	Loss of consortium	Rs. 10,000/-
3	Loss of love and affection towards 2 to 4 claimants	Rs. 30,000/-
4	Loss of love and affection towards 5th claimant	Rs. 10,000/-
5	Transportation expenses	Rs. 10,000/-
6	Funeral expenses	Rs. 10,000/-
7	Medical bills	Rs. 1,708/-
	Total	Rs.4,76,708/-

4. The learned counsel for the appellant would submit that awarding a compensation of a sum of Rs.4,76,708/-- towards the death of a 56 year old merchant, in favour of his wife, children and mother is highly excessive and unsustainable. The Tribunal has erred in taking the income of the deceased at Rs.5,000/-, in the absence of any proof. Further, the Tribunal has erred in deducting 1/4th towards the personal expenses, since the claimants 2 to 4 are major children and they cannot be considered as dependents of the deceased. Based on these, the learned counsel for the appellant has sought for allowing of the Civil Miscellaneous Appeal.

5. This Court heard the submissions made by the learned counsel for the appellant and perused the materials available on record.

6. The Tribunal, taking note of the age of the deceased as 56 years has fixed the income of the deceased at Rs.5,000/- per month and apportioned the compensation to the wife and other dependents numbering 5.

7. The Honourable Apex Court, in the judgment rendered in Syed Sadiq V. Divisional Manager, United India Insurance Co.

Ltd reported in 2014 (1) TN MAC 459 (SC), in respect of a vegetable vendor, who sustained injuries in an accident which occurred in 2008, determined Rs.6500/- as the monthly income. Taking note of the Syed's case referred to above, since the accident in this case had occurred in the year 2013, I am of the view that the Tribunal has not committed any error in taking the monthly income of the deceased as Rs.5,000/-.

8. As far as contention of the learned counsel for the appellant that there should not be 1/4th deduction towards personal expenses, since the claimants 2 to 4 are major children and they cannot be considered as dependents of the deceased is concerned, a glance of the compensation awarded by the Tribunal reveals that only meager amounts were granted under other heads. Hence, I find that the quantum of compensation determined by the Tribunal need not be interfered with.

9. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the Tribunal is also confirmed. The appellant Transport Corporation Company is directed to deposit the entire award amount together with interest to the credit of MCOP No.764 of 2014 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Cuddalore if not already deposited, 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 entitled to withdraw their respective shares as apportioned by the Tribunal on filing necessary applications before the Tribunal. There will be no order as to costs in this appeal.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal
Principal District Judge), Cuddalore.

+1cc to Mr.D.Venkatachalam, Advocate Sr.23388

C.M.A.No.782 of 2016

nm[co]
srg 10/06/2016