

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

C.M.A.No.811 of 2016
and C.M.P.No.6522 of 2016

The Manager
Metropolitan Transport Corporation Ltd.,
Pallavan Salai
Chennai-2
...Appellant/ Respondent

vs.

1.S.Vasanthan
2.G.Srinivasan
...Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree made in M.C.O.P.No.5884 of 2011 dated 16.03.2015 on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai.

For Appellant/Transport Corporation : Mr.S.Sivakumar

For Respondents 1 and 2/claimants : Mr.K.Varadhakamaraj

JUDGMENT

(Judgment of the Court was delivered by HULUVADI G. RAMESH, J.)

The Tamil Nadu State Transport Corporation has filed the above appeal challenging the award made in M.C.O.P.No.5884 of 2011, dated 16.03.2015 on the file of Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

2. It is a case of fatal accident. On 28.06.2009 at about 4.40 p.m., while the deceased/Ramesh was riding his motor cycle bearing Reg.No.TN-09-AC-7989 and proceeding on the G.S.T.Road, the bus belonging to the appellant/Transport Corporation, bearing Reg.No.TN-01-N-5783, driven by its driver in a rash and negligent manner, hit the deceased from behind as a result of which the deceased was thrown down and sustained grievous injuries and inspite of treatment died on the same day. A case was registered in regard to the said accident.

3. The claimants, who are mother and father of the deceased have filed claim for compensation in a sum of Rs.10,00,000/-. According to the claimants, the deceased was a professional car driver and was earning Rs.10,000/= per month.

4. In support of the claim, the mother of the deceased examined herself as P.W.1 and one Swaminathan, who is an eye-witness to the accident, was examined as P.W.2 and one Rajasekar was examined as P.W.3. Exhibits P-1 to P-11 were marked. On behalf of the Transport Corporation, L.Muralikrishnan, driver of the MTC bus was examined as R.W.1. However no documents were marked.

5. The Tribunal, taking note of the oral evidence of P.W.2, R.W.1 and Exhibits P.1, P.2 and P.3, held that due to the rash and negligent driving by the driver of the MTC bus, the accident had occurred and consequently, fixed the liability on the Transport Corporation to compensate the claimants.

6. Based on the oral and documentary evidence, the Tribunal fixed the age of the deceased at 21 years and income of the deceased at Rs.8,000/- per month and further added 30% towards future prospects and while deducting 50% towards his personal expenses, by adopting multiplier of 18, calculated the loss of pecuniary benefits to the dependents at Rs.11,23,200/-. [Rs.5,200 x 12 x 18 = Rs.11,23,200/-] Accordingly, the Tribunal passed the award granting compensation as below with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of pecuniary benefits to the dependents of the deceased by adopting multiplier 18	Rs.11,23,200/-
2	Funeral expenses	Rs. 25,000/-
3	Loss of love and affection(50,000 x 2)	Rs. 1,00,000/-
4	Loss of estate	Rs. 50,000/-
	Total	Rs. 12,98,200/-

7. Insofar as the issue regarding negligence is concerned, the learned counsel for the appellant/Transport Corporation has no serious objection and hence, the same is confirmed.

8. The learned counsel for the appellant/transport corporation raised a serious objection with regard to the grant of compensation under the head "Loss of Estate". According to the learned counsel for the appellant when the Tribunal had calculated the pecuniary loss to the dependents' and awarded a

sum of Rs.11,23,200/-, the sum of Rs.50,000/- awarded under the head "Loss of Estate" is not warranted.

9. After perusing the entire award, we are of the considered view that the submission made by the learned counsel for the appellant merits acceptance. The loss of pecuniary benefits and loss of estate are almost intertwined and therefore award of compensation on both the heads now of simply double the compensation, which is impermissible. Accordingly, the compensation awarded under the head "Loss of Estate" is liable to be deleted. Insofar as the amounts awarded under the other heads are concerned, the same appears to be justified in all aspects.

10. Accordingly, the compensation awarded by the Tribunal stands modified as follows:

Sl. No.	Head	Amount granted by the Tribunal	Amount granted by this court
1	Loss of pecuniary benefits	Rs.11,23,200/-	Rs.11,23,200/-
2	Funeral expenses	Rs.25,000/-	Rs. 25,000/-
3	Loss of love and affection (50,000 x 2)	Rs.1,00,000/-	Rs. 1,00,000/-
4	Loss of estate	Rs.50,000/-	---
	T	Rs.12,98,200/-	Rs. 12,48,200/-
	otal		

11. In the result, the Civil Miscellaneous Appeal is partly allowed as follows:-

- (i) The award of the Tribunal is reduced to Rs.12,48,200/- from Rs.12,98,200/-.
- (ii) The award amount will carry interest at the rate of 7.5% per annum from the date of petition in M.C.O.P.No.5884/2011 till the date of deposit.
- (iii) The transport corporation is directed to deposit the entire amount, as modified above along with interest and entire costs. On such deposit, the claimants are entitled to withdraw the award amount equally between them, by filing appropriate application before the Tribunal.

- (iv) There will be no order as to costs in this appeal.
- (v) Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
II Court of Small Causes, Chennai.

+1cc to Mr.S.Sivakumar, Advocate Sr.25361
+1cc to MR.K.Varadhakamaraj, Advocate Sr.25162

C.M.A.No.811 of 2016

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srg 14/06/2016



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