

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.89 of 2016

and

CMP No.909 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Limited,
No.3/137, Salamedu,
Vazhuthareddy,
Villupuram - 605 602. ..Appellant/1st Respondent

vs.

1.Padmavathi
2.Minor Nithiya
3.Minor Priyadharshini
(Minors 2 and 3 are represented
by his natural guardian/mother,
the first petitioner) ..Respondents 1to3/Petitioners

4.Veerammal ..4th Respondents/2nd Respondent

Civil Miscellaneous Appeal filed under Section 173
Motor Vehicles Act, 1988 against the Judgment and decree dated
12.3.2014 made in MCOP No.96 of 2013 on the file of the Motor
Accident Claims Tribunal (Special District Court), Villupuram.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

The Managing Director of Tamil Nadu State
Transport Corporation, Villupuram, has approached this Court
challenging the Judgment and Decree in MCOP No.96 of 2013 dated
12.3.2014 passed by the Motor Accident Claims Tribunal (Special
District Court), Villupuram, awarding a sum of Rs.6,57,000/-
with interest at 7.5% from the date of filing of the claim
petition till the date of deposit.

2. The learned counsel appearing for the appellant
would submit that the Tribunal has solely relied upon the
registration of an FIR against the driver of the Bus belonging
to the appellant Transport Corporation bearing Reg.No. TN 32 N
2437 to hold negligence against him. Adding further, he would

submit that without any corroboration from the evidence of PW.2, who is alleged to be an eye-witness, whatever was deposed by PW.2 was accepted and as a result, the manner of accident has been wrongly held by the Tribunal. This apart, the claimants have also not filed any valid document to prove the age of the deceased and also income of the deceased. Even without any valid document filed by the claimants to prove the income of the deceased, the Tribunal has wrongly proceeded to fix the notional monthly income of Rs.4,500/-, which is also on the higher side. Therefore, he prays that the impugned award deserves to be interfered with by this Court.

3. Heard the learned counsel appearing for the appellant and perused the materials available on record.

4. This Court finds hardly any merit in any of the contentions made by the learned counsel appearing for the appellant Transport Corporation. The reason is that on 5.2.2011 at about 4.45 p.m., the deceased Moorthy @ Vinayagamoorthy was proceeding on his motorbike bearing Reg.No.PY.01 AL 5746, near Ayyanar Kovil, Mundiampakkam Sugar Factory, Chennai to Villupuram Road, at that time, the appellant's Bus bearing Reg.No.TN 32 N 2437 came with a heavy speed, rashly and negligently, and dashed against the deceased motorbike causing the deceased to fall down and sustain multiple injuries. Immediately, he was admitted in the Government Hospital, Mundiampakkam, Villupuram. However, he succumbed to injuries and post-mortem was done. An eye-witness to the accident was examined as PW.2. According to him, the accident was not due to the negligence on the part of the deceased. As per PW.2's evidence, when the deceased was driving his motorbike, the appellant's bus came at the back in a rash and negligent manner and hit the vehicle of the deceased at his back and then dashed against another vehicle which was standing near the dividing wall on the fateful day. Consequently, on the same day, an FIR was registered against the driver of the appellant Bus by Vikkiravandi Police Station in Crime No.62/11 under sections 279, 337, 338, 304(A) of the IPC and the same was marked as Ex.P.1 dated 5.2.2011. After considering the evidence deposed by PW.2 - eye-witness to the accident and the contentions made in Ex.P.1 FIR, the Tribunal held that the Driver of the appellant Bus, namely, RW.1, was negligent in driving the bus of the appellant and thereby, caused the accident in which the deceased succumbed to injuries.

5. With regard to the age of the deceased, the Tribunal has taken into account Ex.P.5 Record Sheet of the deceased Vinayagamoorthy, which reveals that the deceased was born on 15.2.1984. Therefore, it is proved that his age was 27 years as on the date of accident. The Tribunal has rightly taken the age of the deceased as 27 years.

6. Though according to the claimants, the deceased was a brick chamber owner and an agriculturist and he was earning a sum of Rs.20,000/- per month, no documentary evidence has been produced to substantiate the same. Disbelieving the statement of the claimants, the Tribunal has fixed the notional monthly income of the deceased as Rs.4,500/-. Therefore, the annual income of the deceased is calculated at Rs.54,000 (Rs.4500 X 12). After deducting 1/3rd for the personal expenses of the deceased, the total dependency was calculated as Rs.36,000/- (Rs.3,000 x 12). Following the ratio laid down in Sarla Verma and others Vs. Delhi Transport Corporation Ltd., and another [(2009) 6 SCC 121], the Tribunal adopted the multiplier 17. Therefore, the total dependency was calculated at Rs.36,000 X 17 = 6,12,000. The first petitioner being the wife, she was awarded a sum of Rs.10,000/- towards consortium. The petitioners 2 and 3 are the children of the deceased and each of them are entitled for a sum of Rs.10,000/- each towards loss of love and affection. The second respondent who is the mother of the deceased is also entitled for a sum of Rs.10,000/- towards love and affection. A sum of Rs.5,000/- was awarded towards funeral expenses. In toto, a sum of Rs.6,57,000 has been awarded by the Tribunal as compensation. In the considered opinion of this Court, the amount awarded by the Tribunal cannot be said to be excessive but it is a meagre award, hence, the same is liable to be sustained and accordingly, it is done.

7. Hence, the appeal fails and the same is dismissed. No costs. The connected Miscellaneous Petition is closed.

8. The appellant Transport Corporation is directed to deposit the entire award amount, if not already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the first respondent and the fourth respondent are entitled to withdraw their award amount by moving an application before the Tribunal. Award amount of the minor respondents 2 and 3 should be deposited in a Nationalised Bank till they attain majority. Minor respondents' mother is entitled to receive the interest once in 3 months directly from the bank for the maintenance of the minors.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

asvm

To

1. The Special District Court/
(Motor Accident Claims Tribunal),
Villupuram.

2. The Section Officer, VR Section,
High Court, Madras.

C.M.A.No.89 of 2016
and
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