

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13/4/2016

C O R A M

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.847 of 2016

The Managing Director
Tamil Nadu State Transport Corporation (VPM) Limited
Kanchipuram Region
Kanchipuram 631 502. ... Appellant/Respondent

Vs

1. Vasanthi
2. P. Agalya
3. P. Ashok Kumar (minor)
rep. By his mother and next friend
Mrs.Vasanthi.
Vellore District. ... Respondents/Petitioners

Appeal filed under Section 173 of the Motor vehicles Act, 1989 against the judgment and decree passed by the Motor Accident Claims Tribunal/Court of Small Causes, Chennai, Chief Judge, Chennai in M.C.O.P.No.5146/2013 dated 4/2/2015 for awarding compensation.

For appellant ... Mr.K.Paramasivadoss

For respondents ... Ms.M.Malar

J U D G M E N T

The appellant Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the judgment and decree dated 4/2/2015 passed in M.C.O.P.No.5146 of 2013 on the file of the Motor Accident Claims Tribunal (Court of Small Causes), Chennai.

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

3. The claimants, who are the mother, unmarried sister and brother/legal heirs of the deceased P.Ajith Kumar, aged 19 years, who met with a fatal accident on 25/7/2013 at about 19.00 hours, approached the Tribunal, claiming compensation to the tune of Rs.15,00,000/-.

4. The Tribunal, based on the oral and documentary evidence, granted the following amounts as compensation with interest at 7.5% p.a.

S.No.	Head	Amount granted by the Tribunal
1.	Loss of pecuniary benefits	Rs.6,48,000/-
2.	Love and Affection	Rs. 75,000/-
3.	Funeral Expenses	Rs. 25,000/-
4.	Transport	Rs. 5,000/-
	T O T A L	Rs.7,53,000/-

5. The learned counsel appearing for the appellant would submit that the driver of the appellant drove the vehicle, bearing registration No.TN21N-0716 from Arakonam to Perambakkam with due care and caution on the left side of the road. At that time, near Perumoochi, the rider of the motor cycle bearing registration No.TN73Y-6321 came from the right side and attempted to over take the bus in a rash and negligent manner, lost his balance, grazed on the right side of the bus, fell down, sustained injuries and died on the spot and the pillion rider also sustained injuries. Since the deceased is solely responsible for the accident, no compensation ought to have been granted by the Tribunal.

6. In a case reported in 2009 ACJ1298 {Sarla Verma and Others Vs. Delhi Transport Corporation and another}, it is held as follows:-

"... However, where the family of the bachelor is large and dependents on the income of the deceased as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one third and contribution to the family will be taken as two third."

7. As per the above said guidelines, though the deceased was a bachelor at the time of accident, he has a mother,

unmarried sister and non earning brother. Hence 1/3rd is to be deducted towards the personal expenses of the deceased.

8. A cursory glance of the award and the aforesaid citation would make it clear that the award of the Tribunal in granting compensation to the legal representatives of the deceased cannot be said to be excessive. Hence this Court finds no reason to interfere with the compensation awarded by the Tribunal

9. In the above circumstances, finding no merit, by confirming the award of the Tribunal, this Civil Miscellaneous Appeal is dismissed. The Appellant Transport Corporation is directed to deposit the entire award amount together with interest to the credit of M.C.O.P.No.5146 of 2013 on the file of the Motor Accident Claims Tribunal/Court of Small Causes, Chennai, 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 the same as apportioned by the Tribunal. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The Chief Judge,
The Motor Accident Claims Tribunal/Court
of Small Causes, Chennai.

+1cc to Ms.M.Malar, Advocate Sr.28684

WEB COPY

C.M.A.No.847 of 2016

kgk[co]
srg 22/06/2016