

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2016

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THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No. 851 of 2016

&

C.M.P. No.6928 of 2016

The Managing Director
Tamil Nadu Transport Corporation
(Villupuram) Limited
3/137, Salamedu, Villupuram 605 602. ..Appellant

Vs.

1.Vanajashi
2. Charles Sundarji
3. Chittibabu ..Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of the Motor Vehicle Act as against the Judgment and decree dated 13.06.2013 made in M.C.O.P. No. 4940 of 2006 on the file of Motor Accidents Claims Tribunal (Court of Small Causes), Chennai.

For Appellant :: Mr.P.Paramasivadoss

For Respondents :: Mr.S.Parthasarathy

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the judgment and decree dated 13.06.2013 made in M.C.O.P. No. 4940 of 2006 on the file of Motor Accidents Claims Tribunal (Court of Small Causes), Chennai.

2. Heard the learned counsel for the appellant and the learned counsel who took notice for the respondents and perused the materials on record.

3. Claiming compensation to the tune of Rs.9 lakhs on account of the death of one Rajamanickam, who met with an accident that took place on 22.05.2006 at Mudichur Road, near Tambaram, when the bus belonging to the appellant Corporation, dashed against the two wheeler driven by the said Rajamanickam, since deceased, due to the rash and negligent driving of the

driver of the appellant Corporation, the claimants who are the wife, son and the father of the deceased approached the Tribunal. The Tribunal, as against the claim of Rs.9 lakhs made by the respondents herein, on analysing the evidence on record, awarded a sum of Rs.6,38,400/- with interest @ 7.5% per annum from the date of numbering of claim petition till the date of realisation. Challenging the said award, the Transport Corporation is before this Court, in this appeal.

4. The claimants contended that the deceased, aged 47 years was running a hotel under the name and style of Rohini hotel and the income of the deceased was Rs.9,000/- per month. However, the Tribunal, taking note of the fact that the monthly income of the deceased would be Rs.4,500/- per month, in the absence of any documentary proof, by adding 30% for future prospects and adopting 13 multiplier, passed an award that due to the rash and negligent driving of the vehicle of the driver of the bus, the fatal accident on 22.05.2006 had occurred and granted compensation to the tune of Rs.6,38,400/- along with interest at 7.5% p.a. under various heads which are mentioned as follows:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of income (5850x2/3x12x13	Rs.6,08,400/-
2	Loss of consortium	Rs. 10,000/-
3	Loss of estate	Rs. 10,000/-
6	Transport and Funeral expenses	Rs. 10,000/-
	Total	Rs.6,38,400/-

5. Admittedly, the driver of the appellant Transport Corporation bus has not been examined. 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. The accident in this case took place on 22.05.2006. Taking note of the Syed's case referred to above, fixing the income of the deceased at Rs.4,500/- cannot be said to be excessive. Further, a glance of the award of compensation would make it clear that the compensation awarded particularly under the head "loss of consortium" is very meagre. Hence, the award of the Tribunal in granting compensation to the tune of Rs.6,38,400/- cannot be said to be erroneous. Hence, this Court is not inclined to interfere with the compensation awarded by the Tribunal.

6. Hence, finding no merit, this Civil Miscellaneous Appeal is dismissed by confirming the award of the Tribunal. The rate of interest at 7.5% p.a. granted by the Tribunal is confirmed. No costs. Connected miscellaneous petition is closed.

7. The Appellant Transport Corporation is directed to deposit the entire award amount together with proportionate costs and interest @ 7.5% per annum from the date of numbering of the claim petition to the credit of M.C.O.P.No.4940 of 2006 on the file of the Motor Accidents Claims Tribunal, Court of Small Causes, Chennai, if not already deposited within a period of six weeks from the date of receipt of a copy of this order and on such deposit being made, the respondents herein/claimants are entitled to make necessary application to withdraw the same as apportioned by the Tribunal. It is made clear that the guidelines given by this Court in C.M.A.No.428 of 2016 vide judgment dated 11.03.2016 vide judgment dated 11.03.2016 should be strictly followed.

-s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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To

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

+1 cc to Mr.P.Paramasivados Advocate sr.25576

+1 cc to Mr.S.Parthasarathy Advocate sr.25185

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