

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.852 of 2016

&

CMP.No.6929 of 2016

Tamil Nadu State Transport Corporation,
represented by its Managing Director,
having office at Railway Station Road,
Kumbakonam Town ... Appellant/Respondent

Vs.

1. Panchavarnam
2. Maheswari
3. Kannan
4. Minor Karthika, ... Respondents/Petitioner
rep. By her next friend and mother
Panchavarnam

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 05.01.2015 made in M.C.O.P No.118 of 2013 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Mannargudi.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

Challenging the award of the Tribunal mainly on the question of quantum, the Transport Corporation has come up with this appeal.

2. For the death of one Kumar, who sustained grievous injuries and died in an accident which occurred on 03.01.2013, his wife, son and daughters filed a claim petition before the Tribunal seeking a sum of Rs.10,00,000/- as compensation. The Tribunal, on consideration of the oral and documentary evidence, awarded a sum of Rs.7,11,500/- as compensation to the claimants with interest at 7.5% per annum from the date of petition till the date of realization. Details of the award are as under:

S.No	Heads	Amount
1	Loss of dependency	Rs.5,26,500.00
2	Funeral expenses	Rs. 25,000.00
3	Loss of consortium to the 1 st claimant	Rs. 50,000.00
4	Loss of Love and affection to claimants 2 and 3 (each Rs.30,000/-)	Rs. 60,000.00
5	Loss of Love and affection to the 4 th claimant	Rs. 50,000.00
	Total	Rs. 7,11,500.00

3. Learned counsel for the appellant/Transport Corporation contended that no valid documents are filed by the claimants to prove the age and income of the deceased and that the Tribunal ought not to have fixed the monthly income of the deceased at Rs.4,500/-, which is on the higher side.

4. According to the claimants, at the time of accident, the deceased was aged 50 years, earning a sum of Rs.7,500/- by doing agricultural work. But, the Tribunal has fixed the notional income of the deceased at Rs.4,500/- per month and after making deductions towards his personal expenses, took Rs.3,375/- as his monthly contribution and applying the multiplier of '13', arrived at a sum of Rs.5,26,500/- as compensation towards 'Loss of Dependency'. The accident in question is of the year 2013. Even going by the judgment in the case of Syed Sadiq and others vs Divisional Manager, United India Insurance Co. Ltd. (2014 ACJ 627), wherein, the Apex Court has fixed the notional income of a vegetable vendor at Rs.6,500/-, this Court is of the view that the income of the deceased fixed by the Tribunal is by no means excessive.

5. Coming to the compensation awarded under other heads, i.e. 'Funeral expenses', 'Loss of consortium' and 'Loss of love and affection', this Court is of the view that they are just and reasonable and do not require any interference.

6. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. It is made clear that if no amount is deposited so far, the appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.118 of 2013 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Mannargudi, within a period of four weeks

from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the major claimants their respective share as apportioned by the Tribunal, in the form of a crossed Account Payee Cheque, favouring only them and it should not be issued in favour of any other person/Company. As far as the share of the minor 4th claimant is concerned, it shall be deposited in a Fixed Deposit Scheme in any one of the Nationalised Banks initially for a period of one year, renewable thereafter and the interest accrued on such deposit shall be withdrawn by her natural guardian/mother once in three months, till she attains majority. No costs. Consequently, connected C.M.P.No.6929 of 2016 is closed.

7. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To :

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Mannargudi.

सत्यमेव जयते

C.M.A.No.852 of 2016

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