

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2016

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.874 of 2016
and
C.M.P.No.7038 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram. Appellant/Respondent

Vs.

1.Jayalakshmi
2.Bagyalakshmi
3.Thiagarajan
4.Deivendran Respondents/Petitioners

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the order and decreetal order dated 30.11.2015 made in M.C.O.P.No.873 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the order and decreetal order dated 29.08.2013 made in M.C.O.P.No.873 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore.

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

3. Brief facts are that on 13.9.2013, the deceased Devanathan was travelling along with his son Thiagarajan in the appellant-Transport Corporation bus bearing registration No.TN-32 N 1927 from Cuddalore to Naduveerapattu and the bus stopped at the bus stop opposite to Kumaran Thirumana Mandapam, Naduveerapattu. When the deceased was alighting from the bus, the driver of the bus suddenly moved the bus, as a result of which, the deceased fell down and was dragged to some distance and sustained injuries. Immediately, the deceased was taken to Pannuti Government Hospital, wherefrom he was taken to Government Headquarters Hospital, Cuddalore where he was given treatment. Despite treatment, the deceased succumbed to the

injuries. Regarding the accident, a criminal case in Crime No.197/2013 was registered by Naduveerapattu Police Station against the driver of appellant-Transport Corporation. Alleging that the accident was due to rash and negligent driving of the driver of the bus and that the family has lost the support, the mother, wife and sons have filed the Claim Petition claiming compensation of Rs.20,00,000/-.

4. Resisting the claim, the appellant-Transport Corporation has filed the counter stating that the driver of the bus drove the bus with due care and caution observing traffic rules and he was not rash and negligent at the time of accident. The compensation claimed by the respondents/ claimants is baseless and excessive.

5. Before the Tribunal, the respondents/claimants examined two witnesses and marked Exs.P1 to P6. No oral and documentary evidence was adduced by the appellant- Transport Corporation. Upon consideration of the materials available on record, the Tribunal awarded total compensation of Rs.8,30,000/- to the respondents/ claimants payable with interest at the rate of 8% per annum from the date of petition till the date of realization. Aggrieved by the same, the appellant- Transport Corporation has preferred this appeal.

6. The point urged by the learned counsel for the appellant in this appeal is, in the absence of proof of income, the Tribunal ought not to have fixed the monthly income of the deceased at Rs.6,000/- per month and that the total compensation awarded by the Tribunal is excessive. The learned counsel for the appellant has also submitted that the rate of interest awarded by the Tribunal is on the higher side.

7. The respondents/claimants in their petition and the third claimant (P.W.1) in his evidence stated that at the time of accident, the deceased was working in Kumar Briquettes Company, Panruti and was getting monthly salary of Rs.15,000/-. The claimants have also examined P.W.2, the Proprietor of the said Company and produced Ex.P6-salary certificate. The Tribunal, after analysing the evidence of P.W.2 and Ex.P6, come to the conclusion that there is no other document to prove that P.W.2 is the Proprietor of the company and that the claimants have failed to prove the income of the deceased. However, considering the nature of work and age of the deceased, the Tribunal has taken the monthly income of the deceased at Rs.6000/- per month. After deducting 1/4th for personal expenses of the deceased and adopting multiplier 13, the Tribunal has arrived at the loss of dependency at Rs.7,02,000/-. Adding Rs.20,000/- each towards loss of love and affection another Rs.20,000/- towards loss of consortium and Rs.25,000/- towards transport and funeral expenses, the Tribunal has awarded total compensation of Rs.8,27,000/-. Though, the respondents/claimants have claimed that the deceased was earning Rs.15,000/- per month, except Ex.P6-salary certificate, no other cogent document

has been produced in support of their claim. Considering the nature of work and age of the deceased, the Tribunal has rightly fixed the monthly income of the deceased as Rs.6,000/- per month, which in my view warrants no interference. As far as compensation awarded by the Tribunal under other conventional heads are concerned, there is no need for this Court's interference.

8. On a perusal of the Award, I find that the Tribunal has not awarded any amount towards future prospects. As per the decision in 2013 (2) TN MAC 55 (S) [Rajesh and others v. Rajbir Singh and others], 50% of monthly salary is to be added as future prospects. In the absence of any cross objection/appeal by the respondents/claimants, this Court is not inclined to award any amount towards future prospects. Thus, the total compensation awarded by the Tribunal is just and reasonable compensation. The rate of interest awarded by the Tribunal is also quite reasonable.

9. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. There will be no order as to costs in this appeal. Connected miscellaneous petition is closed.

10. The Appellant Transport Corporation is directed to deposit the entire award amount together with proportionate costs and interest @ 8% per annum from the date of claim petition to the credit of M.C.O.P.No.873 of 2014 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Cuddalore, 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/claimants are entitled to make necessary application to withdraw the same.

11. 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.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Principal District Judge,
Motor Accident Claims Tribunal,
Cuddalore. (For directions in Para No.11)

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