

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.945 of 2016
&
C.M.P. No. 7330 of 2016

The Managing Director
TNSTC (Kumbakonam) Limited
Kumbakonam

..Appellant/Respondent

Vs.

1. Saraswathi
2. Minor Mohan
3. Minor Aravind
(Minors 2 and 3 are represented
by mother, guardian-1st petitioner)

..Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal as against the Judgment and decree dated 12.12.2011 made in M.C.O.P. No.5 of 2010 on the file of Motor Accidents Claims Tribunal (Principal Sub Court), Mayiladuthurai.

For Appellant :: Mr.S.Vijay Veliappan

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 12.12.2011 made in M.C.O.P. No.5 of 2010 on the file of Motor Accidents Claims Tribunal (Principal Sub Court), Mayiladuthurai.

2. In a fatal accident, a 40 year old man working as layman, died on 14.10.2009, when the appellant Corporation bus bearing Registration No.49 N 2010, which was driven in a rash and negligent manner dashed against him. The claimants are the wife and 2 minor sons. They filed a claim petition before the Motor Accidents Claims Tribunal, Principal Sub Court, Mayiladuthurai, claiming compensation to the tune of Rs.10 lakhs, stating that the income of the deceased Ramesh was Rs.7,500/- per month.

3. The Tribunal, after scrutinizing the income of the deceased based on the oral and documentary evidence, fixed the monthly income at Rs.4,000/- per month and by adopting multiplier 16 and after deducting 1/3rd towards personal expenses, have granted compensation at Rs.5,12,000/- towards loss of income. The Tribunal has also granted a sum of Rs.25,000/- for loss of consortium and a sum of Rs.20,000/- for loss of love and affection and Rs.5,000/- for funeral expenses, totalling a sum of Rs.5,62,000/-. Aggrieved over the same, the Corporation has come forward with this appeal.

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

5. Even though the appellant has raised a point that there is no evidence for the salary claimed by the claimants at Rs.7,500/- per month, the Tribunal, after scrutinizing the records, has fixed the income only at Rs.4,000/-. That apart, even though the multiplier as contended by the appellant is to be 15 and that the Tribunal has adopted 16, since the Tribunal has granted a meager compensation towards loss of consortium and the compensation awarded towards love and affection is too low and that future prospects have not been considered, I am not inclined to interfere with the award passed by the Tribunal. Hence, the award of the Tribunal is confirmed. The rate of interest awarded by the Tribunal is also confirmed. The Civil Miscellaneous Appeal is dismissed.

6. 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 claim petition, to the credit of M.C.O.P.No.5 of 2010 on the file of the Motor Accident Claims Tribunal, Sub Court, Myladuthurai, 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 major respondent /major claimant is entitled to make necessary application to withdraw her share. As far as the shares of the minors are concerned, the same shall be deposited in Fixed Deposit Scheme initially for a period of three years and thereafter be renewed periodically. It is made clear that the interest accrued from such deposit shall be withdrawn by the 1st claimant once in three months. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal Sub Court,
Myladuthurai.

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

Copy to: The Managing Director, TNSTC (Kumbakonam) Ltd.,
Kumbakonam.

+ 1 cc to M/s. V.S. Vijay Vellappan, Advocate Sr.25217

C.M.A. No. 945 of 2016

RSK(CO)
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