

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.946 of 2016

&

C.M.P. No. 7331 of 2016

The Managing Director
Tamil Nadu State Transport Corporation
(Villupuram) Limited,
No3/137, Salamedu,
Vazhuthareddy,
Villupuram-605 602. ..Appellant/Respondent

Vs.

1.P.Pappathi
2.P.Megalai ..Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed U/S.173 of Motor Vehicle Act 1988 as against the order and decreetal order dated 02.08.2014 made in M.C.O.P. No.521 of 2012 on the file of Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore.

For Appellant :: Mr.K.J.Sivakumar

J U D G M E N T

The Transport Corporation has come forward by filing this Civil Miscellaneous Appeal challenging the order and decreetal order dated 02.08.2014 made in M.C.O.P. No.521 of 2012 on the file of Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore.

2. It is a case of fatal accident. On 06.07.2011 at about 4.00 p.m., when the deceased Pavadai was standing on the side of the Cuddalore-Chidambaram Main Road, at ValliKaraikadu bus stop, the appellant's bus bearing Reg.No.TN32N-2947 came in a rash and negligent manner and hit against the said Pavadai. Due to which, the deceased sustained grievous multiple injuries all over the body and he was immediately taken to Government Hospital at Cuddalore and thereafter he was treated as an inpatient for 21 days, however, he succumbed to death. The claimants, who are daughters of the deceased approached the

Tribunal claiming compensation to the tune of Rs.15,00,000/-. The Tribunal, based on the oral and documentary evidence, awarded compensation to the tune of Rs.3,28,000/-. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

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

4. A cursory glance of the award of the Tribunal would make it clear that the Tribunal taking note of the fact that the deceased, after the accident was taken to Government Hospital, Cuddalore and was treated as inpatient for 21 days, has come to the conclusion that the accident occurred due to rash and negligent driving of the driver of the appellant's bus. Considering the materials on records, the Tribunal arrived at a total compensation of Rs.3,28,000/- to be awarded to the claimants who are stated to be the daughters of the deceased.

5. The contention of the appellant is that the claimants have failed to produce the income proof of the deceased before the Tribunal. However, though taking note of the age of the deceased and at the age of 60 years, at the relevant period of accident, definitely he could earn not less than Rs.4,000/- per month and the Tribunal has rightly fixed a sum of Rs.4,000/- as monthly income of the deceased.

6. 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. Taking note of the Syed's case referred to above, since the accident in this case had occurred in the year 2011, in the absence of any proof, I am of the view that the Tribunal has not committed any error in taking the monthly income of the deceased as Rs.4,000/- and by applying the multiplier '9' and after deducting 1/3rd towards his personal expenses, had granted the compensation at Rs.3,28,000/- with interest at 6% p.a. Further, a glance of the award would reveal that the Tribunal is right in granting the compensation under other heads and the same cannot be said to be excessive. Hence, I find no reason to interfere with the award of the Tribunal.

7. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the Tribunal is also confirmed. The appellant Transport Corporation Company is directed to deposit the entire award amount together with interest to the credit of MCOP No.521 of 2012 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 claimants are entitled to withdraw their respective shares as apportioned by the Tribunal on filing necessary applications before the Tribunal. There will be no order as to costs in this appeal. Connected miscellaneous petition is closed.

8. 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(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Principal District Judge,
The Motor Accidents Claims Tribunal,
Cuddalore.

+1cc to Mr.K.J.Sivakumar, Advocate Sr.53440

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