

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.957 of 2016

&

C.M.P. No. 7347 of 2016

The Managing Director,
Tamil Nadu State Transportation
Salem. Appellant/Respondent

Vs.

1. Solayammal
2. Krishnamoorthy
3. Arivazhagan
4. Minor Prakash Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal as against the fair and decretal order dated 03.07.2012 made in M.C.O.P. No.60 of 2012 on the file of Motor Accidents Claims Tribunal, Additional District and Sessions Court-III, Kallakurichi.

For Appellant :: Mr.D.Venkatachalam

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the fair and decretal order dated 03.07.2012 made in M.C.O.P. No.60 of 2012 on the file of Motor Accidents Claims Tribunal, the Additional District and Sessions Court III, Kallakurichi.

2. On 08.11.2012 at about 20.30 hrs., when the deceased Matheswaran was standing in Ulakankathan Kaikatti Bus Stop, the appellant's bus bearing Reg. No.TN-30-N-0780, driven by its driver in a rash and negligent manner and hit the said Matheswaran, due to which, he sustained grievous injuries. Immediately, he was taken to Government Hospital, Kallakurichi and thereafter, he was referred to Salem Government Hospital and on the way to Salem Government Hospital, he died.

3. Originally the mother, father and two brothers filed a claim petition before the Tribunal, claiming compensation to the tune of Rs.7,00,000/- and the Tribunal, based on the oral and documentary evidence, granted compensation to the tune of Rs.5,96,000/-. Aggrieved over the same, the present appeal is filed by the Transport Corporation.

4. The main contention raised by the Appellant Corporation is that the deceased was bachelor at the time of accident and hence, 50% of income has to be deducted by the Tribunal instead of 1/3rd income. He further contended that no valid documents have been filed before the Tribunal to prove the age and income of the deceased and the Tribunal ought not to have fixed the monthly income of the deceased at Rs.4800/- and it is on the higher side. Hence, he prays to reduce the compensation awarded by the Tribunal.

5. This Court heard the submissions made by the learned counsel for the appellant and perused the materials available on record.

6. The bone of contention of the learned counsel for the appellant is that the Tribunal ought to have deducted 50% income of the deceased instead of 1/3rd deduction. Though much force appears in the said contention that the Tribunal ought to have deducted 50% towards his personal expenses, no amount has been granted towards future prospects apart from the fact that the lesser compensation has been awarded under conventional heads and deducting 1/3rd towards personal expenses cannot be said to be excessive.

7. 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 2009, 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.4,800/- and the same is very meagre and also taking note of the fact that there is no fault on the part of the deceased, the Tribunal held that the driver of the bus drove the vehicle in a rash and negligent manner and caused the accident. 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 view of the above, this Court finds no reason to interfere with the award of the Tribunal and hence the appeal is dismissed. No costs. Connected miscellaneous petition is closed.

8. 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, before the Tribunal, to the credit of M.C.O.P.No.60 of 2012 on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Court-III, Kallakurichi, within a period of four 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 applications to withdraw the the same, as apportioned by the Tribunal.

9.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 V)

//True Copy//

Sub Assistant Registrar

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To

The Additional District and Sessions Court-III,
(Motor Accidents Claims Tribunal),
Kallakurichi.

1 cc to M/s.D.Venkatachalam, Advocate, sr.25596
1 cc to M/s.P.Valliappan, Advocate, sr.25520

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