

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.963 of 2016

&

C.M.P. No. 7376 of 2016

Managing Director

Tamil Nadu State Transport Corporation

No.37, Mettupalayam Road

Coimbatore 641 043

..Appellant/2nd respondent

Vs.

1. Parvathy

2. Karuppusamy

3. Saraswathi

..Respondents1-3/petitioners

4. Senthilvel

..4th respondent/1st respondent

R4 not necessary party

hence given up.

Prayer: Civil Miscellaneous Appeal as against the Judgment and decree dated 31.07.2014 made in M.C.O.P. No. 105 of 2012 on the file of Motor Accidents Claims Tribunal, Sub Court, Udumalpet.

For Appellant :: Ms.K.Kalaivani

J U D G M E N T

The Transport Corporation has come forward by filing this Civil Miscellaneous Appeal challenging the Judgment and decree dated 31.07.2014 made in M.C.O.P. No. 105 of 2012 on the file of Motor Accidents Claims Tribunal, Sub Court, Udumalpet.

3. It is a case of fatal accident. On 23.12.2011 at about 9.45 p.m., when the deceased Chinnasami was walking on the left side of Palladam-Udumalpet road, the 4th respondent who had driven the bus bearing Registration No.TN 38 N 1417 in a rash and negligent manner, hit against the deceased, due to which, the deceased sustained injuries all over the body and he was immediately taken to the Government Hospital at Udumalpet and thereafter he was treated as an inpatient for 45 days at CMC Hospital, however, he succumbed to death. The claimants who are the mother, sister and brother of the deceased approached the Tribunal, claiming compensation to the tune of Rs.10,00,000/-.

The Tribunal, based on the oral and documentary evidence, awarded compensation to the tune of Rs.3,64,000/-. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

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

5. 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 the CMC hospital and was treated as inpatient for 45 days, had arrived at the total compensation to be awarded to the claimants who are stated to be the mother, brother and the sister of the deceased. The Transport Corporation has not disputed the accident, however, contended that the claimants 2 and 3 are not entitled to the compensation, which cannot be accepted for the reason that there is an evidence to the fact that they were taken care of by the deceased.

6. Further, a contention was made that proof with regard to income was not produced before the Tribunal, however, though taking note of the decision of this Court in the case of P.L.Thennappan vs. S.Thanu and another (2013 (2) TNCJ 97 (Mad), wherein an observation was made that the income could be taken at Rs.5,000/-, the Tribunal has fixed the monthly income at Rs.6,000/-.

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 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.6000/-. The deceased being a bachelor, the Tribunal, after deducting 50% towards personal expenses, granted compensation to the claimants by apportioning the remaining loss of income in the ratio of 2:1:1. 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.

8. 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.105 of 2012 on the file of the Motor Accident Claims Tribunal (Sub Judge), Udumalpet, 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.

rg

s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

The Motor Accidents Claims Tribunal,
Sub Court, Udumalpet

jsv(co)
prk9/6

C.M.A. No.963 of 2016 &
C.M.P. No. 7376 of 2016



WEB COPY