IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.246 of 2014
& M.P.No.1 of 2014
and Cross Objection No.7 of 2015

The Managing Director
Metropolitan Transport Corporation,
Pallavan Salai, Anna Salai,
Chennai - 02.

... Appellant in C.M.A.No.246 of 2014
& Respondent in Cross Obj.7/2015/
Claimants in Claim Petition

vs.

1. Tmt.Alamelu
2. S.Gopal

... Respondents in C.M.A.No.246 of 2014
& Cross Objectors in Cross Obj.7/2015/
Respondent in Claim petition

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 and Cross Objection is filed under Order 41 Rule 22 of the Code of Civil Procedure against the award and decree dated 25.04.2013 passed in M.C.O.P.No.4234 of 2011 on the file of the Motor Accidents Claims Tribunal (Chief Small Causes Court), Chennai.

For Appellant in C.M.A
& Respondent in Cross Obj. : Mr.S.V.Vasanthakuma

For Respondents in C.M.A.
& Cross Objectors in Cross Obj.: Mr.R.Thirugnanam

C O M M O N J U D G M E N T
(Judgment of the Court was delivered by R.SUDHAKAR,J.)

The Transport Corporation is on appeal challenging the award dated 25.04.2013 passed in M.C.O.P.No.4234 of 2011 on the file of the Motor Accidents Claims Tribunal (Chief Small Causes Court), Chennai.

2. The claimants have filed Cross Objection seeking enhancement of award dated 25.04.2013 passed in M.C.O.P.No.4234 of 2011 on the file of the Motor Accidents Claims Tribunal (Chief Small Causes Court), Chennai.

3. It is a case of fatal accident. On 11.02.2011 at about 11.00 hours, when the deceased, Vadivelu, aged 25 years, was riding the motor cycle bearing Registration No.TN-02-AL-0735 on Koyambedu 100 feet road, near HDFC Bank, the bus belonging to the appellant Transport Corporation bearing Registration No.TN-01-N-8958 came in a rash and negligent manner, hit the motorcycle and ran over the said Vadivelu. As a result, the said Vadivelu died on the spot. The claimants, who are mother aged 49 years and father, aged 54 years of the deceased have filed a claim for compensation for a sum of Rs.50,00,000/-. According to the claimants, the deceased was working as a Lead Cad Engineer in Black Stone Group Technologies P. Ltd., and was earning a sum of Rs.25,000/- per month.

4. In support of the claim, the father of the deceased was examined as P.W.1; one Mahendran, who is stated to be eye witness to the accident was examined as P.W.2 and one Mr.Ramu, was examined as P.W.3 and Ex.P-1 to Ex.P.17 were marked, the details of which are as follows:-

Ex.No.	Details
P1	Copy of F.I.R.
P2	Copy of rough sketch
P3	Copy of M.V.I. Report
P4	Copy of charge sheet
P5	Copy of post mortem certificate
P6	Death certificate
P7	Legal heirship certificate
P8	Series certificates regarding educational qualification
P9	Copy of pan card of deceased
P10	Pay slip for the month of May 2010
P11	Bus ticket
P12	Identity card of deceased
P13	Authorisation letter
P14	Appointment letter of deceased
P15	Identity card of P.W.3
P16	Attendance register

Ex.No.	Details
P17	Copy of statement of salary credit of staff accounts

On behalf of the appellant Transport Corporation, Singaram, driver of the bus was examined as R.W.1 and no documents were marked before the Tribunal.

5. The Tribunal based on the oral evidence of the witnesses, the F.I.R. and also taking note of the fact that the rider of the vehicle was having valid driving licence to drive the two wheeler came to conclusion that the driver of the appellant Transport Corporation bus was rash and negligent and was responsible for the accident and consequently liability was fixed on the appellant, to compensate the claimants. On this issue, learned counsel for the appellant/Transport Corporation has no serious objection with regard to the finding of the Tribunal as no material has been placed to come to a different conclusion from that of the conclusion arrived by the Tribunal.

6. Based on the oral and documentary evidence, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of pecuniary benefits to the dependents of the deceased (1,90,448x13)	Rs.24,75,824/-
2	Loss of love and affection	Rs. 50,000/-
3	Funeral expenses	Rs. 10,000/-
	Total	Rs.25,35,824/-

7. Learned counsel appearing for the appellant/Transport Corporation submitted that the monthly income fixed by the Tribunal is on the higher side.

8. Insofar as the quantum of compensation is concerned, as per the pay slip, the Tribunal fixed the income of the deceased at Rs.23,512/- per month in respect of the 25 years old deceased, which is very reasonable and is justified.

9. The Tribunal deducted 50% towards personal expenses of the deceased. This appears to be justified, since the deceased is a bachelor.

10. Learned counsel appearing for the claimants in the Cross Objection submitted that the Tribunal had adopted multiplier 13 and the correct multiplier is 18. In terms of Second Schedule to Section 163A of the Motor Vehicles Act, considering the age of the deceased who was 25 years old at the time of death and in terms of the Apex Court's decision in Sarla Verma - vs. - Delhi Transport Corporation, 2009(2) TNMAC 1 (SC), the actual multiplier is 18. Therefore, this Court finds good reason to increase the multiplier and the quantum of compensation awarded.

11. There is no serious objection in respect of the other amounts granted or the interest granted at 7.5% per annum.

12. A perusal of the order of the Tribunal reveals that the income of the deceased including future prospects works out to Rs.35,268/- (23,512 + 11,756 = 35,268/-). In the net taxable income, standard deduction of Rs.2,00,000/- has to be deducted and only the rest of the amount is taxable under the 10% tax slab. In such view of the matter, the tax at 10% on the total compensation arrived at by the Tribunal is not justified. Accordingly, the income tax to be deducted is as under:

Rs.35,268 x 12 = 4,23,216/-
Less: Standard Dedn. = 2,00,000/-
Taxable Income = 2,23,216/-
Tax on income = 22,322/-
Surcharge @ 2% = 446/-
Total = 22,768/-
Total income = 4,00,448/-
50% dedn towards personal exp.= 2,00,224/-
Loss of income to the family =2,00,224 x 18 =Rs.36,04,032/-

13. Accordingly, the award of the Tribunal stands modified as follows:

Sl. No.	Head	Amount awarded by the Tribunal	Amount awarded by this Court
1	Loss of pecuniary benefits to the dependents of the deceased	Rs.24,75,824/- (Rs.1,90,448x13	Rs.36,04,032/- (Rs.2,00,224 x 18)
2	Loss of love and affection	Rs. 50,000/-	Rs. 50,000/-
3	Funeral expenses	Rs. 10,000/-	Rs. 10,000/-
	Total	Rs.25,35,824/-	Rs.36,64,032/-

14. In the result, the Civil Miscellaneous Appeal stands dismissed and the Cross Objection stands allowed as follows:

(i) The award of the Tribunal is increased from Rs.25,35,824/- to Rs.36,64,032/-.

(ii) The interest granted by the Tribunal at 7.5% per annum is confirmed.

(iii) Learned counsel appearing for the appellant submits that as per the order passed by this Court dated 12.03.2014, directing the appellant to deposit 75% of the award amount, the appellant has deposited the same and as per the order of this Court dated 22.01.2015, the parents of the deceased has withdrawn 50% of the deposited amount. He seeks further time to deposit the balance amount.

(iv) The appellant/Transport Corporation is granted eight weeks time to deposit the balance amount ordered by this Court.

(v) On such deposit being made, the parents of the deceased is permitted to withdraw the same.

(vi) Except the above modification, the award of the Tribunal in all other aspects stands confirmed.

(vii) There will be no order as to costs in this appeal and the Cross Objection.

Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Chief Judge, Court of Small Causes
(Motor Accidents Claims Tribunal)
Chennai.

+1cc to Mr.S.V. Vasanthakumar, Advocate, S.R.No.14461
+1cc to Mr.R. Thirugnanam, Advocate, S.R.No.14413

UG(CO)
EU(31/03/2016)

C.M.A.No.246 of 2014
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