

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.612 of 2014
& M.P. No. 1 of 2014

The Branch Manager
Tamil Nadu State Transport Corporation
Trichy. ... Appellant/2nd Respondent

Vs.

1.Hameetha Banu
2.Nisharudeen
3.Sabitha Banu
4.Kadharbevi ... Respondents 1 to 4/ Petitioners
5.Ganesa Raja
6.Rajan
7.Suganya Jayaprakash
8.United India Insurance Co, Ltd.
Office at No.280, Otty Main Road,
Mettupalayam.
(RR 5 to 7 were set ex-parte) ... Respondents 5 to 8/
Respondents 2 & 3 to 5

Prayer: Civil Miscellaneous Appeals as against the Judgment and decree dated 04.03.2013 made in M.C.O.P. No.437 of 2010 on the file of Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Tiruppur.

For Appellant : Mr.D.Venkatachalam

For RR1 to 4 : Mr.Ma.P.Thangavel
RR5 to 7 Exparte
R8 - Not Ready Notice

JUDGMENT

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the judgment and decree dated 04.03.2013 made in M.C.O.P. No.437 of 2010 on the file of Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Tiruppur.

2. It is a case of fatal accident. On 02.04.2010, at about 1.30p.m. while the deceased Samsudeen, was travelling as

a passenger in the bus bearing registration No.TN-45-N-2773 coming from Kangeyam to Kovai Road, a Tipper lorry bearing Registration No.TN.38-AT-4848 driven by its driver in a rash and negligent manner dash against the bus and thereby, he died on the spot. The wife, children and mother, who are the dependents of the deceased have filed a claim petition before the Tribunal seeking compensation of a sum of Rs.25,00,000/-.

3. The Tribunal based on the oral evidence of the witnesses, and the documentary evidence, granted the following amounts as compensation with interest at 7.5% per annum:-

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of dependency	Rs. 9,45,000/-
2	Loss of consortium	Rs. 10,000/-
3	Loss of love and affection towards 1 to 4 claimants	Rs. 30,000/-
4	Transportation expenses	Rs. 2,000/-
5	Funeral expenses	Rs. 50,000/-
	Total	Rs. 9,92,000/-

4. The learned counsel for the appellant would submit that awarding a compensation of a sum of Rs.9,92,000/- towards the death of a 45 year old man who is having own lathe work shop, in favour of his wife, children and mother is highly excessive and unsustainable. The Tribunal has erred in taking the income of the deceased at Rs.7,000/-, in the absence of any proof. Further, the Tribunal has erred in deducting 1/4th towards the personal expenses, since the claimants 1 to 4 are major children and they cannot be considered as dependents of the deceased. Based on these, the learned counsel for the appellant has sought for allowing of the Civil Miscellaneous Appeal.

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

6. The Tribunal, taking note of the age of the deceased as 45 years has fixed the income of the deceased at Rs.7,000/- per month and apportioned the compensation to the wife and other dependents numbering 3.

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 2010, I am of the view that the Tribunal has not committed any error in taking the monthly income of the deceased as Rs.7,000/-.

8. As far as the contention of the learned counsel for the appellant that there should not be 1/4th deduction towards personal expenses, since the claimants 2 to 4 are major children and they cannot be considered as dependents of the deceased is concerned, a glance of the compensation awarded by the Tribunal reveals that no amount had been granted under the head future prospects. Hence, I find that the quantum of compensation determined by the Tribunal need not be interfered with.

9. 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.437 of 2010 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Tiruppur, if not already deposited, within a period of eight 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.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Motor Accidents Claims Tribunal
Chief Judicial Magistrate, Tiruppur.
- 2.The Section Officer,
V.R.Section,
High Court, Madras 104.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.25529
+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No.25571

C.M.A. No.612 of 2014

PVS (CO)
CA(12/09/2016)