

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1213 of 2012

and

M.P. No. 1 of 2012

The Managing Director,  
Tamil Nadu State Transportation  
Corporation (Salem) Ltd.,  
12, Ramakrishna Road,  
Salem - 7.

... Appellant/2nd Respondent

Vs.

1. Palaniammal ...1st Respondent/Petitioner
2. Rajamanickam ...2ndRespondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 23.02.2011 made in M.C.O.P No.1460 of 2009 on the file of the Motor Accidents Claims Tribunal, Principal Sub Court, Tiruppur.

For Appellant : Mr. D. Venkatachalam

For Respondents: Mr. Ma.P. Thangavel for R1

R-2 Exparte

J U D G M E N T

The Transport Corporation has come up with this appeal challenging the negligence and quantum of compensation awarded by the Tribunal.

2. On 11.10.2009, when the deceased Murugesan was travelling with his friend in a motor cycle bearing Registration No.TN 52 Z 1663, near Muttuvankinaru AD Colony, at NH 4, the appellant Transport Corporation bus bearing Registration No.TN 29 N 2187, driven in a rash and negligent manner, dashed against the motor cycle. Due to the accident, the deceased sustained grievous fatal injuries and died. The Claim Petition has been filed by his mother, before the Tribunal, seeking a sum of

Rs.15,00,000/- as compensation. After analyzing the available oral and documentary evidences, the Tribunal awarded a sum of Rs.4,12,000/- as compensation, under the following heads:

| Sl. No | Heads              | Amount         |
|--------|--------------------|----------------|
| 1      | Loss of dependency | Rs.3,96,000.00 |
| 2      | Love and Affection | Rs. 10,000.00  |
| 3      | Funeral Expenses   | Rs. 5,000.00   |
| 4      | Transportation     | Rs. 1,000.00   |
|        | Total              | Rs.4,12,000.00 |

3. Learned counsel appearing for the appellant/Transport Corporation, opposed the award on the ground of negligence since the rider of the motor cycle, along with friend, came in a hectic speed, overtaking a car and an auto, in the opposite direction and dashed against the Corporation bus in the front, due to which the deceased and another sustained fatal injuries and hence the entire negligence is on the part of the rider of the motor cycle. Learned counsel also challenged the quantum of compensation, mainly contending that in the absence of proof of income, the Tribunal ought not to have fixed the monthly income of the deceased as Rs.4,500/- per month. Further the Tribunal has erred in deducting 1/3<sup>rd</sup> towards his personal expenses, while the proper deduction would be 50%, as the deceased was a bachelor at the time of accident, as per the guidelines issued in Sarala Verma's case, reported in 2009 (2) TNMAC 1. Challenging the award on the above grounds, this appeal has been filed.

4. On the other hand, learned counsel appearing for the first respondent/claimant would submit that based on the judgment of the Apex Court in Syed Sadiq vs. Deputy Manager, United Insurance Co. Ltd., reported in 2014 (1) TNMAC 459, even in the absence of proof of income, the monthly income of the deceased should have been fixed at Rs.6,500/-. He further contended that as held in Rajesh's case reported in 2013(2) TNMAC 55, the Tribunal ought to have granted 50% of the income of the deceased towards future prospects, but no amount has been granted under the said heading.

5. This Court considered the submissions made on the learned counsel on either side and perused the materials available on record.

6. After investigation of the witnesses, the Tribunal has come to the conclusion that the driver of the Transport Corporation bus, is responsible for the fatal accident and not the rider of the motor cycle. A perusal of the award and records

would show that the Tribunal was right in foisting the liability on the appellant Transport Corporation and the award is also very fair, reasonable and correct and it needs no interference and the same is confirmed.

7. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. The appellant/Transport Corporation is directed to deposit the entire award amount, together with accrued interest, less the amount already deposited, to the credit of M.C.O.P.No.1460 of 2009 on the file of the Motor Accidents Claims Tribunal, Principal Sub Court, Tiruppur, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimant in the form of a crossed Account Payee Cheque, favouring only the claimant and it should not be issued in favour of any other person/Company. No costs. Consequently, the M.P. is closed.

-s/d-  
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To :  
The Principal Sub Court,  
Motor Accidents Claims Tribunal,  
Tiruppur.

copy to:

The Section Officer  
VR Section  
High court, Madras

+1 cc to Mr.D.Venkatachalam Advocate sr.15566  
+1 cc to Mr.Ma.P.Thangavel Advocate sr.15813

C.M.A.NO.1213 of 2012  
and  
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