

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2016

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.3224 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam District. ... Appellant/Respondent

vs.

1. Venkatachalam
2. Muthukannu ... Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree in M.C.O.P.No.141 of 2012, dated 04.06.2013 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur.

For Appellant : Mr.D.Venkatachalam

For Respondents : Mr.S.Gunalan

J U D G M E N T

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

2. Heard the learned counsel for the appellant Transport Corporation as also the learned counsel appearing for the respondents/claimants.

3. In an accident which occurred on 27.01.2012, about 2.00 p.m., when one Balan was proceeding in his motor cycle bearing Registration No.TN 46 H 9901 towards Maruthayan Koil, a bus bearing Registration No.TN 45 N 2127 belonging to the appellant Transport Corporation came in a rash and negligent manner in the opposite direction, without observing traffic rules and without sounding horn and dashed against the motor cycle, as a result of which, the deceased was thrown off from his vehicle, sustained fatal injuries and died on the spot. For the death of the

deceased, his parents filed a claim petition before the Tribunal seeking a sum of Rs.10 lakhs as compensation.

4. On consideration of the entire oral and documentary evidence, the Tribunal held that the accident occurred due to the rash and negligent driving of the driver of the appellant Transport Corporation Bus and applying multiplier method, awarded a sum of Rs.6,52,000/- as compensation to the claimants with interest at the rate of 7.5% per annum. Details of the award are thus:

Heads	Amount
Loss of income	Rs.6,12,000.00
Loss of love and affection	Rs. 20,000.00
Loss of estate	Rs. 10,000.00
Transport charges	Rs. 5,000.00
Funeral expenses	Rs. 5,000.00
Total	Rs.6,52,000.00

5. Learned counsel for the appellant Transport Corporation mainly contended that the Tribunal erred in fixing the monthly income of the deceased at Rs.6000/- in the absence of any proof in support of income. It is also his contention that though according to the claimants, the deceased had worked abroad and earned a sum of Rs.20,000/- per month, at the time of accident, the deceased had no employment.

6. Taking into consideration the age of the deceased, date of accident, cost of living and status of the parties, the Tribunal fixed the notional monthly income of the deceased at Rs.6,000/-. Since he was a bachelor at the time of death, deducting 50% of his income towards personal expenses and arriving at a sum of Rs.3,000/- as the monthly contribution of the deceased, the Tribunal, adopted the multiplier of '17' and awarded a sum of Rs.6,12,000/- as compensation towards 'loss of income'. Though, there is no proof in support of the income of the deceased, taking note of the ratio laid down by the Apex Court in Syed Sadiq and others vs Divisional Manager, United India Insurance Co. Ltd. (2014 ACJ 627), wherein, the notional income of a vegetable vendor is fixed at Rs.6,500/- per month, this Court finds no error in the fixation of the monthly income of the deceased in this case at Rs.6,000/-. Also, the multiplier adopted is correct. Further, this Court finds that 'future prospects' of the deceased has not been taken into account. Hence, I do not find any error in the compensation

awarded by the Tribunal towards loss of income and the same is confirmed. As far as the other heads are concerned, this Court is of the view that they are just and reasonable and they are accordingly confirmed.

7. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation, i.e. a sum of Rs.6,52,000/- (Rupees Six Lakhs Fifty Two Thousand only) and the rate of interest at 7.5% per annum awarded by the Tribunal. It is made clear that if no amount is deposited so far, the appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.141 of 2012 on the file of the Principal District Judge, Motor Accidents Claims Tribunal, Perambalur within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay compensation to the claimants in the form of a crossed Account Payee Cheque, favouring only the claimants and it should not be issued in favour of any other person/Company. No costs. Consequently, connected M.P.No.1 of 2013 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To :

1. The Principal District Judge,
Motor Accidents Claims Tribunal,
Perambalur.

2.The Section Officer, VR Section,
High Court Court, Madras 104.

1 cc to M/s.D.Venkatachalam, Advocate, sr.14777

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rsk co
kra 06.09.2016