

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2016

CORAM

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

C.M.A.No.3472 of 2013
and
M.P.No.1 of 2013

The Managing Director
Tamil Nadu State Express
Transport Corporation Ltd
Pallavan Salai,
Chennai 600 002. ... Appellant/Respondent

vs.

1. K.R.Chandrasekaran
2. K.C.Gayathri
3. K.C.Saranya
4.K.C.Vijayakumar (Minor)
Minor is represented by his
father 1st respondent.

... Respondents/Petitioners

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 27.06.2013 passed in M.C.O.P.No.1814 of 2011 on the file of the Motor Accidents Claims Tribunal (II Additional District Judge), Salem.

For Appellant : Mr.P.Paramasivadoss

For Respondents: R1-4 not ready in notice

JUDGMENT

(Judgment of the Court was delivered by R.SUDHAKAR,J.)

The Transport Corporation is on appeal seeking reduction in the quantum of compensation awarded by the Motor Accidents Claims Tribunal (II Additional District Judge), Salem in M.C.O.P.No.1814 of 2011 dated 27.06.2013.

2. It is a case of fatal. On 27.07.2011, when the deceased Sagunthala, who was working as Health Nurse in Government Health Department at K.R.Thoppur, was returning to

her home, after her duty time at about 19.00 hours by walking with care and caution, near Five Roads Rountana, towards East side of the Road, a S.E.T.C. Ltd., Express Bus bearing Registration No.TN 01/N 4794, which came in high speed from New Bus stand to Hasthampatty, driven by its driver in a rash and negligent manner, dashed against her, resulting in an accident. While she was taken to the hospital, she was died on the way. The husband and the children of the deceased filed a claim for compensation for a sum of Rs.55,15,000/-

3. In support of the claim, the 1st claimant Chandrasekaran, husband of the deceased examined himself as P.W.1; One Karunakaran was examined as P.W.2 and One Painthamilselvi, an officer was examined as P.W.3 and Exs.P-1 to Ex.P4 and witness exhibits 1 to 3 (rh/rh/M 1 to 3) were marked, the details of which are as follows:-

Ex.No.	Details
P1	Copy of FIR
P2	Copy of Postmortem certificate
P3	Death certificate
P4	Legal heir certificate
rh/rh/M 1	Copy of employment register of the deceased
rh/rh/M 2	Copy of the last drawn salary certificate of Sagunthala
rh/rh/M 3	Copy of salary with deductions

On behalf of the Transport Corporation, one Irulappan, Driver was examined as R.W.1, however no documents were marked before the Tribunal.

4. The Tribunal based on the oral evidence of the witnesses, the F.I.R. came to conclusion that the driver of the bus was responsible for the accident and consequently liability was fixed on the Transport Corporation to compensate the claimants.

5. 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	Compensation for loss of revenue 22151x12x11	Rs.29,23,932/-
2	Loss of consortium to the 1st petitioner	Rs. 5,000/-

Sl. No.	Head	Amount granted by the Tribunal
3	Loss of love & affection to the petitioners	Rs. 40,000/-
4	Transport expenses	Rs. 5,000/-
5	Funeral expenses	Rs. 5,000/-
6	Damage to clothes	Rs. 2,000/-
	Total compensation	Rs.29,80,932/-

Aggrieved over the same, the Transport Corporation has come before this Court.

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

7. The finding of negligence on the part of the driver of the appellant Transport Corporation bus who is responsible for the accident and consequential liability fixed on the appellant Transport Corporation to compensate the claimants is not seriously disputed and such finding is confirmed.

8. The Tribunal fixed the income of the deceased at Rs.33,226/- and after deducting 1/3rd towards her personal expenses and based on the age of the deceased at 52 years, by adopting the multiplier 11, awarded the compensation as stated above. A plea has been taken that there is no deduction towards income tax. But, considering the overall quantum of compensation awarded,, we find that the compensation for loss of consortium to the husband, for the loss of love and affection to the children are very very meager. Therefore, we find no ground to reduce the amount for income tax. Since, the amount awarded under the other heads are justifiable, we find no reason to interfere with the order of the Tribunal.

9. In view of the above, the compensation awarded by the Tribunal is confirmed and since there is no serious objection with regard to the interest granted at 7.5%, the same is also confirmed.

10. In the result, the civil miscellaneous appeal is dismissed. The Transport Corporation is directed to deposit the entire award amount less the amount already deposited to the credit of M.C.O.P.No.1814 of 2011 on the file of the Motor Accidents Claims Tribunal (II Additional District Judge), Salem and on such deposit being made, the major claimants are permitted to withdraw the entire award amount along with proportionate interest as apportioned by the Tribunal by filing necessary applications before the Tribunal. As far

as the minor share is concerned, the same shall be invested in a nationalized bank under Fixed deposit scheme initially for a period of three years and the interest accruing therefrom shall be permitted to be withdrawn by the father of the minor/1st claimant once in three months. There will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The II Additional District Judge
Motor Accidents Claims Tribunal
Salem.

Copy to: The Section Officer, VR Section, High Court, Madras.

+ 1 cc to Mr.N. Desinghu, Advocate Sr.17500

C.M.A.No.3472 of 2013

SAI (CO)
Eu 25.4.16

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