

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2016

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.3591 of 2013

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

vs.

1. Sutha
2. Minor Kirankumar
3. Minor Manisha
4. Azhagammal ... Respondents

(Minors 2 and 3 represented by their Mother
and natural guardian, the 1st respondent Sudha)

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 against the judgment and decree in
M.C.O.P.No.245 of 2012, dated 07.01.2013 on the file of the
Motor Accidents Claims Tribunal, Principal District Judge,
Ariyalur.

For Appellant : Mr.D.Venkatachalam

For Respondents : Mr.I.Arokiasamy

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 and the learned counsel appearing for the
respondents/claimants.

3. In an accident which occurred on 11.07.2012, about 7.30
p.m., when one Egambaram was riding his two-wheeler bearing
Registration No.TN 61 B 4665 along with one Manthirikumar as
pillion rider, a bus bearing Registration No.TN 68 N 0288
belonging to the appellant Transport Corporation, came in a rash
and negligent manner and dashed against the said two-wheeler,
due to which, both the rider and pillion rider died on the spot.
For the death of the deceased Manthirikumar, his wife, two minor

children and mother approached the Tribunal seeking a sum of Rs.25 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.7,45,000/- 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 Dependency	Rs.6,80,000.00
Loss of love and affection	Rs. 24,000.00
Funeral expenses	Rs. 6,000.00
Loss of Consortium	Rs. 25,000.00
Loss of Estate	Rs. 10,000.00
Total	Rs.7,45,000.00

5. Learned counsel for the appellant Transport Corporation mainly contended that the Tribunal erred in fixing the monthly income of the deceased at Rs.5000/- in the absence of any proof in support of his income. It is his further contention that the Tribunal has erred in adopting '17' as multiplier, whereas, the correct multiplier as per the ratio laid down in Sarla Verma's case is '16'.

6. Taking into consideration the age of the deceased, date of accident and cost of living, the Tribunal fixed the notional monthly income of the deceased at Rs.5,000/-. This Court finds no error in the fixation of Rs.5000/- as the monthly income of the deceased, who was doing masonry and agricultural work, in view 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 was fixed at Rs.6,500/- per month.

7. Coming to the multiplier aspect, this Court finds that the Tribunal has wrongly adopted the multiplier of '17'. As the deceased was aged 32 years at the time of accident, the Tribunal ought to have adopted '16' as the multiplier in view of the judgment rendered by the Apex Court in the case of Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121.

8. Further, this Court finds that the Tribunal while computing compensation towards 'loss of dependency' has not taken note of the future prospects of the deceased and it ought to have deducted one-fourth towards his personal expenses instead of one-third, as his dependents are four in number. Though the Tribunal has erred in fixing '17' multiplier instead of '16', in the considered view of this Court, the compensation awarded towards 'loss of dependency' can be confirmed, for certainly there will be enhancement of compensation, if 50% of the income of the deceased is added towards future prospects even by applying the multiplier of '16'. Hence, the compensation of a sum of Rs.6,80,000/- awarded towards 'loss of dependency' is confirmed. Also, this Court finds that the compensation awarded under other heads are just and reasonable and they are accordingly confirmed.

9. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation, i.e. a sum of Rs.7,45,000/- (Rupees Seven Lakhs Forty Five 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.245 of 2012 on the file of the Principal District Judge, Motor Accidents Claims Tribunal, Ariyalur, 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 major claimants 1 and 4 in the ratio apportioned by the Tribunal in the form of a crossed Account Payee Cheque, favouring only the major claimants 1 and 4 and it should not be issued in favour of any other person/Company. In the case of minor claimants 2 and 3, their respective share of the award amount shall be deposited in any of the Nationalised Banks under reinvestment scheme, initially for a period of one year renewable thereafter and the interest accrued on such deposit shall be withdrawn by their natural guardian, once in three months, till they attain majority. No costs. Consequently, connected M.P.No.1 of 2013 is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To:

The Principal District Judge,
Motor Accidents Claims Tribunal,
Ariyalur.

The Section Officer,
V.R.Section, High Court,
Madras.

+1 cc to Mr.D.Venkatachalam, advocate,sr.14775

gj(co)
krd 12/11

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