

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A. No.3326 of 2012
and M.P.No.1 of 2012

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
No.12, Ramakrishna Road, Salem - 7.

... Appellant/2nd Respondent.

Versus

1.Dhatchayini

2.Minor Prasanth

Minor rep. by their next friend
and mother Dhatchayani

3.Daivanai

4.N.Sarvaraju

... Respondents/Petitioners
and 1st Respondent.

[4th respondent, who is 1st respondent in the
main case was set ex-parte before the Tribunal]

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988, against the judgment and decree in
M.C.O.P.No.4 of 2007 dated 20.09.2011 on the file of the Motor
Vehicles Accident Claims Tribunal, Principal District Judge,
Namakkal.

For Appellant : Mr.D.Venkatachalam

For Respondent Nos.1 to 3 : Mr.Ma.Pa.Thangavel

J U D G M E N T

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

2.In an accident which occurred on 02.03.2006, about
11.15a.m., from Tiruchengode to Namakkal Main Road near
Manickampalayam River Bridge, when the deceased, Dhanasekaran
was travelling as a passenger in a stage carriage Bus bearing
Registration No.TN-27/N-1390, which was driven by its driver in
a rash and negligent manner without observing the road traffic
rules and applied sudden brake, due to which, he was thrown-out
from the said bus and sustained grievous injuries all over his
body including head injury and died on the spot. The
Velagoundampatti Police registered a case in Crime No.47 of 2006
for the alleged offences under Sections 279 and 304[A] of IPC

against the bus driver. His wife, minor son and mother of the deceased filed a Claim Petition before the Tribunal seeking a sum of Rs.7,00,000/- as compensation. After analyzing the available oral and documentary evidence, the Tribunal awarded a sum of Rs.4,34,000/- as compensation, under the following heads:

Heads	Amount
Loss of Dependency	Rs.3,84,000.00
Loss of Consortium	Rs. 10,000.00
Love and affection	Rs. 30,000.00
Funeral Expenses	Rs. 10,000.00
Total	Rs.4,34,000.00

3.Learned counsel appearing for the appellant/Transport Corporation would submit that in the absence of proof of income, the Tribunal ought not to have fixed monthly income of the deceased at Rs.3,000/- and the Tribunal erred in selecting multiplier as 16 and in view of the decision of the Hon'ble Apex Court in Sarla Verma -Vs- Delhi Transport Corporation and another [2009 (6) SCC 121], the proper multiplier for the age group between 36 and 40 would be 15.

4.On the other hand, learned counsel appearing for the respondents/claimants would submit that the deceased, who is aged about 40 years was working as a Salesman in a private jewellery shop met with an accident on 02.03.2016 and the Tribunal by fixing the income at Rs.3,000/- per month adopting the multiplier as 16 and deducting 1/3rd towards his personal expenses awarded a compensation of Rs.4,34,000/- together with interest at the rate of 7.5%p.a.

5.Heard the submissions made by the learned counsel on either side and gone through the materials available on record.

6.In Syed Sadiq vs. Divisional Manager, United India Insurance Company Limited, (2014) 2 SCC 735, the Hon'ble Apex Court fixed the monthly income of a vegetable vendor at Rs.6,500/- per month, in the absence of proof of income. Hence, the amount fixed by the Tribunal at Rs.3,000/- cannot said to be excessive. In fact there is no provision made for future prospects and in view of the decision of this Court in Rajesh case reported in 2013 (2) TNMAC 55, 50% of the deceased income has to be added towards future prospects, which is absent in this case. That apart, the compensation awarded under other heads is also confirmed. Hence, this Court is not inclined to interfere with the compensation awarded by the Tribunal.

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. 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.4 of 2007 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Namakkal, 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, connected M.P.No.1 of 2012 is also closed.

sri

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

The Motor Vehicles Accident Claims Tribunal,
Principal District Judge, Namakkal.

+ 1 cc to Mr.D.Venkatachalam, Advocate SR 24737

+ 1 cc to M/s.Ma.Pa.Thangavel, Advocate SR 24742

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