

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.3586 of 2006

Tamil Nadu State Transport Corporation
rep by its Managing Director,
Salem 636 007. ...Appellant/Respondent

Vs.

1.R.Ganapathi
2.R.Kannan
3.Minor R.Ravikumar
4.R.Vanitha
5.R.Meena
6.P.Arumugam
7.A.Chinnaponnu
(Minor R3 rep. by his next friend and
mother/1st respondent)

..Respondents 1 to 7/
Respondents 1 to 7

Prayer: Civil Miscellaneous Appeal under section 173 of Motor Vehicle Act, 1988, as against the Judgment and decree dated 10.07.2006 made in M.C.O.P.No.1734 of 2005 on the file of Motor Accidents Claims Tribunal, Additional District & Special Judge, (E.C.Act Cases), Salem.

For Appellant : Mr.P.Jagadeeswaran
Respondents -Served-No Appearance

JUDGMENT

This Civil Miscellaneous Appeal is preferred by the Transport Corporation as against the judgment and decree dated 10.07.2006 made in M.C.O.P. No.1734 of 2005 on the file of Motor Accidents Claims Tribunal, Additional District & Special Judge, (E.C.Act Cases), Salem.

2. The Tribunal has awarded compensation to the tune of Rs.3,95,000/- with interest at 7.5% for a 46 year old driver-

cum-automobile broker, who met with a fatal accident on 19.09.2005, when the bus belonging to the appellant came in a rash and negligent manner dashed against the bicyclist and caused the death. The wife, children and parents of the deceased are the claimants and they filed a claim petition before the Tribunal seeking compensation of a sum of Rs.8,00,000/-.

3. The Tribunal based on the oral evidence of the witnesses, and the documentary evidence, granted the following amounts as compensation with interest at 7.5% per annum:-

Sl.No.	Head	Amount granted by the Tribunal
1	Loss of Income	Rs.3,84,000/-
2	Loss of consortium	Rs. 9,000/-
3	Funeral expenses	Rs. 2,000/-
	Total	Rs. 3,95,000/-

4. Taking into account the annual income of the deceased at Rs.24,000/- and by applying multiplier '16' the Tribunal arrived at Rs.3,84,000/- as loss of income of the deceased. Aggrieved over the award, the Transport Corporation is before this Court.

5. The learned counsel for the appellant would submit that the multiplier of '16' adopted is erroneous and as per Sarala Varma's case the correct multiplier for the age of 46 is only '13'. It is further contended that in the claim petition the age of the daughter of the deceased is shown as 24 years and it is seen that the claim petition had been filed in the year 2005 for the accident that took place in the year 200. If the daughter is aged about 24 years certainly the deceased age will not be 36 years, i.e., he could not have got married at the age of '10'. Hence, he seeks for interference in the award of the Tribunal.

6. This Court heard the submissions made by the learned counsel for the appellant and perused the materials available on record.

7. A perusal of the award would reveal that the Tribunal by taking note of the age mentioned in the driving licence had adopted the multiplier. There seems to be some logic in the argument put forth by the learned counsel for the appellant. The Tribunal ought to have taken the age in the pleadings and should have ignored the age mentioned in the driving licence, more particularly, taking note of the age of the daughter. Further, the Tribunal has not taken into consideration the claimants 6 and 7, parents of the deceased and the minor

daughter who are the dependents of the deceased, while awarding compensation under the head loss of consortium.

8. A glance of the compensation awarded by the Tribunal reveals that no amount had been granted under the head future prospects, love and affection and the amount granted under the head loss of consortium and funeral expenses is also very meagre. Hence, I find that the quantum of compensation determined by the Tribunal need not be interfered with.

9. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the Tribunal is also confirmed. The appellant Transport Corporation is directed to deposit the entire award amount together with interest to the credit of MCOP No.1734 of 2005 on the file of the Motor Accident Claims Tribunal, Additional District & Special Judge, (E.C.Act Cases), Salem, if not already deposited, within a period of eight weeks from the date of receipt of a copy of this order and on such deposit being made, the claimants are entitled to withdraw their respective shares as apportioned by the Tribunal on filing necessary applications before the Tribunal. There will be no order as to costs in this appeal.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Motor Accidents Claims Tribunal
Additional District & Special Judge,
(E.C.Act Cases), Salem.

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

+1 cc to Mr.P.Jagadeeswaran Advocate sr.27340/16

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