

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.03.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.1071 of 2017

and

C.M.P.No.5369 of 2017

The Managing Director
Metropolitan Transport Corporation Ltd
Division Office No.2,
Anna Salai, Chennai-2 ... Appellant/Respondent

Versus

1.Mrs.S.Sornapusam
2.Minor Rajaharipriya@Haripriya
3.Minor Rajashalini@ Shalini
4.Minor Rajashamkumar@ Shamkumar

Minors are represented by their mother
and Natural Guardian Mrs.Sornapusam

5.Mrs.Athiyammal
6.Mr.Ramasamy ... Respondents /Petitioners

Appeal filed under Section 173 of the Motor Vehicles Act,
1988 praying to set aside the Judgment and Decree made in
M.C.O.P.No.126 of 2012 dated 23.12.2014 on the file of the Motor
Accidents Claims Tribunal (Principal District Judge), Tiruvallur.

For appellant : Mr.S.Sivakumar

J U D G M E N T

Challenging the quantum of compensation awarded by the
Claims Tribunal in M.C.O.P.No.126 of 2012, dated 23.12.2014, the
Transport Corporation has preferred this Civil Miscellaneous
Appeal.

2. The deceased, Rajamathi, aged 45 years, a self employed
earning a sum of Rs.20,000/- per month died in the accident that
occurred on 15.05.2012. The claimants, viz., wife, children and

parents have filed the claim petition seeking compensation in a sum of Rs.10,00,000/-.

3. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.7,82,000/-. The break-up details of the same are as under:

Loss of income and dependency	-	Rs.6,72,000/-
Loss of consortium to the first claimant	-	Rs. 25,000/-
Loss of love and affection (15,000x5)	-	Rs. 75,000/-
Funeral expenses	-	Rs. 10,000/-
Total	-	Rs.7,82,000/-

4. The learned counsel for the appellant submits that the compensation awarded by the Claims Tribunal is very high and the same needs to be reduced. He further submitted that the Tribunal has erred in holding that the driver of the appellant's bus drove the bus in rash and negligent manner and was responsible for the accident.

5. A perusal of the award passed by the Tribunal reveals that the Tribunal, placing reliance on Ex.P9-copy of driving licence, fixed the age of the deceased as 44 years. The Claims Tribunal, based on Ex.P5- the licence issued by the Corporation of Chennai to the deceased for the year ending 31st March 2013 and Ex.P8-Electricity Consumption card came to the conclusion that the deceased was running a provision shop. Since, no proof of income was filed by the claimants, the tribunal has fixed the monthly income at Rs.6,000/- and deducting 1/3rd towards personal expenses and by adopting multiplier of 14, quantified the compensation in a sum of Rs.6,72,000/- (72,000-1/3x14) towards Loss of Dependency. The Tribunal has further awarded a sum of Rs.25,000/- towards loss of consortium and Rs.75,000/- towards love and affection and Rs.10,000/- towards funeral expenses.

6. Though it is the contention of the learned counsel for the appellant that the compensation awarded is on the higher side, however, on a perusal of the evidence and documents available on record, this Court is of the considered view that the Tribunal has not appreciated the evidence in proper perspective and has awarded very low compensation.

7. When the claimants have produced documentary proof to suggest that the deceased was possessed of a valid licence to run a provision store, the Tribunal ought to have fixed the monthly income on the higher side, but, has miserably

misunderstood the evidence and held that the claimants have not proved the income of the deceased and fixed the income notionally at Rs.6,000/-. Further, when the dependency on the deceased is higher, there being many members in the family, the deduction of 1/3rd towards personal expenses is also not justified.

8. In the above circumstances, based on the ratio laid down by the Supreme Court in Syed Sadiq's case (2014 (2) SCC 735), wherein the notional income for a labour in the unorganised sector is fixed at Rs.6,500/-, this Court fixes the monthly income of the deceased at Rs.6,500/- and adding 30% towards the future prospective increase in income and deducting 1/5th towards the personal expenses of the deceased and adopting multiplier of 14, quantifies the loss of dependency at Rs.11,35,680/=.

9. Insofar as the compensation awarded towards love and affection is concerned, the Tribunal has awarded a sum of Rs.15,000/- to claimants 2 to 4, which is grossly inadequate and on the lower side. Claimants 2 to 5 are minor children and claimants 5 and 6 are the parents of the deceased. This Court is of the considered opinion that a sum of Rs.1,00,000/= each to claimants 2 to 4 and Rs.50,000/- each to claimants 5 and 6 would be a just and reasonable compensation. Accordingly, the compensation under love and affection is enhanced from Rs.75,000/- to Rs.4,00,000/-. Further the compensation awarded towards funeral expenses is enhanced from Rs.10,000/- to Rs.25,000/-. The compensation awarded towards loss of consortium is confirmed.

10. In the result, this Civil Miscellaneous Appeal is dismissed enhancing the compensation from Rs.7,82,000/- to Rs.15,60,680/- with interest @ 7.5% per annum from the date of petition till the date of deposit. Consequently, connected miscellaneous petition is closed. Court fee on the enhanced compensation shall be paid by the Claimants, before withdrawal of the compensation, before the Tribunal.

11. The appellant/Transport Corporation is directed to deposit the compensation amount as enhanced by this Court above together with interest at 7.5% p.a. and costs as awarded by the Tribunal, to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the share of the major claimants, as per the ratio of apportionment ordered by the Tribunal, directly to the bank account of the respective major claimants through RTGS within a period of two weeks thereafter. Insofar as the share of the minor claimants are concerned, the same shall be kept in fixed

deposit till the minors attain majority and the 1st claimant/mother is permitted to withdraw the interest accruing on the said deposit once in three months for using the same for the welfare of the minor claimants.

Sd/-
Assistant Registrar (CS VI)

//True copy//

Sub Assistant Registrar

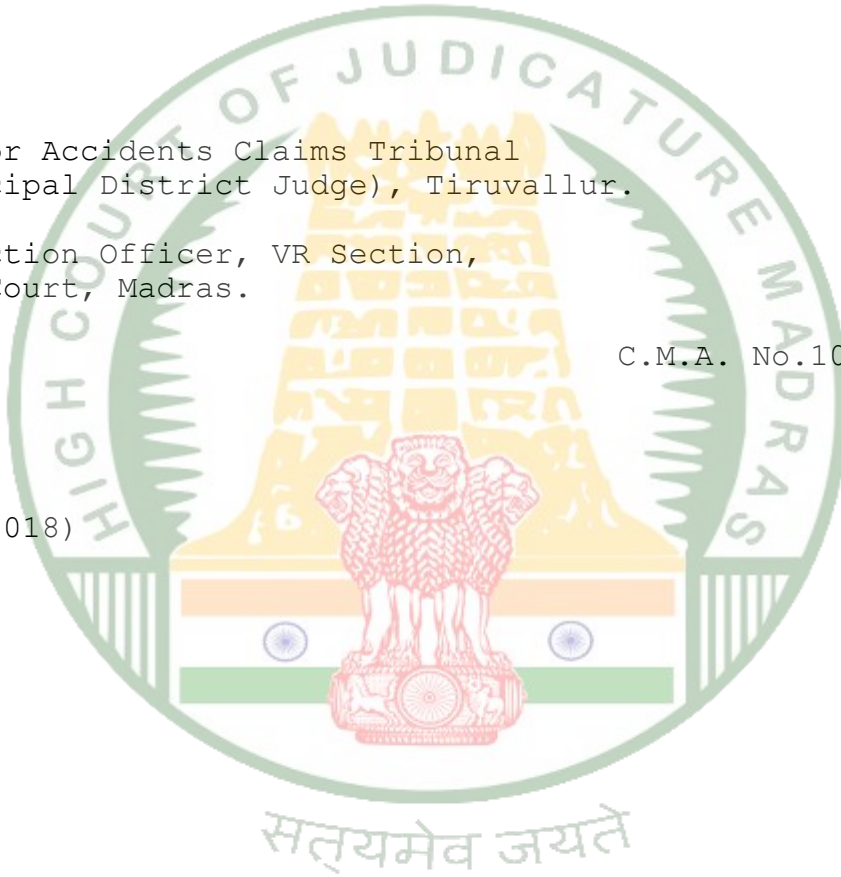
arr/GLN

To

1. The Motor Accidents Claims Tribunal
(Principal District Judge), Tiruvallur.
2. The Section Officer, VR Section,
High Court, Madras.

C.M.A. No.1071 of 2017

CA (CO)
GN (21/06/2018)



WEB COPY