

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 12.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.1105 of 2017

&

C.M.P.No.5489 of 2017

The Managing Director
Metropolitan Transport Corporation (Chennai) Ltd
Anna Salai, Chennai. ... Appellant/Respondent

Versus

1. V. Chitra
2. V. Naveenkumar (Minor)
3. V. Kowsicka (Minor)
4. Joshi ... Respondents/Petitioner
(RR2 & 3 are rep.by their
Mother 1st respondent)

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 08.07.2014 made in M.C.O.P.No.4978/2012 on the file of Motor Accident Claims Tribunal (IIIrd Court of Small Causes), Chennai.

For appellant : Mr. S. Sivakumar

J U D G M E N T

Challenging the finding of negligence as well as quantum of compensation awarded by the Claims Tribunal in M.C.O.P.No.4978 of 2012, dated 08.07.2014, the Transport Corporation has filed this Appeal.

2. The deceased Vijayakumar, aged 28 years, employed as machine operator, earning a sum of Rs.11,000/- per month, died in an accident that occurred on 12.06.2011. Hence, his wife, daughter, son and mother filed a claim petition, in M.C.O.P.No.4978 of 2012, seeking compensation in a sum of Rs.21,00,000/-.

3. The Claims Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs. 11,67,000/- (Rupees Eleven Lakh Sixty Seven Thousand Only) as compensation. The break up details of the same are as follows:

Pecuniary loss (4500x12x18)	:	Rs. 9,72,000/-
Loss of Love and affection	:	Rs. 1,25,000/-
Loss of Consortium to the 1 st petitioner	:	Rs. 50,000/-
Funeral expenses	:	Rs. 20,000/-

		Rs.11,67,000/-

3. The learned counsel for the appellant submits that the compensation awarded by the Tribunal is very high and the same needs to be reduced. It is his further contention that the Tribunal has erred in fixing the negligence on the part of the driver of the appellant Corporation bus.

4. A perusal of the award passed by the Claims Tribunal reveals that insofar as the non-pecuniary benefits are concerned, the first claimant having lost her husband at an early age of 27, the Tribunal has awarded a sum of Rs.50,000/- towards loss of consortium; a sum of Rs.1,25,000/- has been awarded towards loss of love and affection and a sum of Rs.20,000/- has been awarded towards funeral expenses. The compensation awarded under those heads cannot be said to be excessive and it is reasonable and, therefore, no interference is called for with the compensation awarded on those heads.

5. The Claims Tribunal, considering the age of the deceased and the nature of employment, in the absence of proper documentary evidence, notionally fixed the monthly income of the deceased at Rs.6,000/- per month and deducting $\frac{1}{4}$ th towards the personal expenses and adopting proper multiplier of 18 has awarded a sum of Rs.9,72,000/- towards loss of income. Though it is the contention of the learned counsel for the appellant that the Tribunal has fixed a higher income and awarded excessive compensation, however, as noted above, the Tribunal has conservatively fixed the notional income at Rs.6,000/- and has quantified the compensation. The said quantification is just and reasonable and is also on the basis of the ratio laid down in a catena of decisions. In such circumstances, this Court is of the considered view that no interference is called for with the well considered award passed by the Tribunal.

6. Insofar as the contention relating to negligence is concerned, a perusal of the records reveal that the claimants have examined witnesses to substantiate their case. However, the appellant has miserably failed to establish its case by the examining witnesses. In the absence of cogent and convincing reasons, the finding of the Tribunal that the accident has happened due to the rash and negligent driving by the driver of the appellant/Transport Corporation deserves to be sustained.

7. For the reasons aforesaid, this Court finds no reason to interfere with award passed by the Tribunal. Accordingly, this Civil Miscellaneous Appeal is dismissed confirming the Judgment and Decree passed by the Claims Tribunal. Consequently, connected Miscellaneous Petition is closed.

8. The appellant/Transport Corporation is directed to deposit the award amount along with interests and costs as awarded by the Tribunal, less the amount, if any, already deposited to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the major claimants through RTGS within a period of two weeks thereafter as per the ratio of apportionment ordered by the Tribunal. Insofar as the share of the minors are concerned, the same shall be kept in an interest bearing fixed deposit till the minor claimants attain majority and the mother of the minor claimants is permitted to withdraw the interest accruing on the said deposit once in three months directly from the bank and utilise the same for the welfare of the minors.

Sd/-
Assistant Registrar(co)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

To

The Motor Accident Claims Tribunal
(III Court of Small Causes), Chennai

PA(CO)
sm:10.4.2018

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