

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1185 of 2017
and CMP No.5916 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kancheepuram. Appellant/3rd respondent

vs.

1. Smt.Kokila
2. Minor Sathya
3. Minor Nithya
4. Minor Keerthiga
5. Minor Rupan
(2 to 5 Minors rep.by mother and
next friend smt.kokila)1 to 6 Respondents/Petitioners
6. Smt.Rajammal
7. M.G.Tamilarasu
8. Bajaj Allianz General Insurance,
Motor Third Party Cell,
No.25/16, College Road, 4th Floor,
Prince Towers, Nungambakkam,
Chennai - 600 0347 and 8 Respondents/
1 & 2 Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Order and Decreetal Order in MCOP No.319 of 2011 dated 25.07.2013 on the file of Motor Accidents Claims Tribunal, [Subordinate Court], Tiruttani.

For Appellant : Mr.Murali
for Mr.S.Sairaman

J U D G M E N T

[Order of the Court was made by S.MANIKUMAR, J.]

Quantum of compensation of Rs.12,92,000/- with interest at the rate of 7.5% per annum from the date of claim till deposit and costs, awarded in MCOP No.319 of 2011 dated 25.07.2013 on the file of Motor Accidents Claims Tribunal, [Subordinate Court], Tiruttani, is the only challenge in this appeal, on the grounds inter alia that the Tribunal erred in fixing the

monthly income of the deceased as Rs.7,500/- per month, for the purpose of computing loss of contribution to the family. Placing on record the above, we proceed further.

2. Based on Ex.P.2, Postmortem Certificate, age of the deceased, at the time of accident, has been determined as 36 years, which cannot said to be erroneous, in the light of decision of Hon'ble Supreme Court in Fakeerappa Vs. Karnataka Cement Pipe Factory, reported in 2004 (1) TNMAC (SC) 190 and this Court in Managing Director, Tamilnadu State Transport Corporation, Madurai v. Mary, reported in 2005 (5) CTC 515.

3. There is no error in applying '16' multiplier. Though, legal representatives viz., wife, four minor children and mother of the deceased have contended that prior to death, he was engaged in milk vending and real estate business, and earned Rs.20,000/- per month, in the absence of supporting evidence, tribunal has notionally fixed the same as Rs.7,500/ per month and deducted 1/5th towards the personal and living expenses.

4. Income taken for the purpose of computing the loss of contribution to the family is Rs.6,000/- only. Tribunal computed the loss of contribution to the family as Rs.11,52,000/- [Rs.6,000/- x 12 x 16]. That apart, awarded Rs.30,000/- for consortium, Rs.20,000/- each, for loss of love and affection to the minor children and mother of the deceased and Rs.10,000/- for funeral expenses. Altogether, the tribunal has awarded Rs.12,92,000/- with interest at the rate of 7.5% per annum, from the date of claim till deposit and costs.

5. Accident has occurred on 10.03.2017. Sum of Rs.6,000/- taken as monthly income for the purpose of maintaining a family comprising of wife, four minor children and mother, at any stretch of imagination, cannot be said to be arbitrary or grossly excessive, warranting interference.

6. It is not known as to how and on what basis, the appellant State Transport Corporation has questioned the decision of the tribunal, which has determined a very meagre contribution to the family, ignoring the fact that, as a breadwinner of the family, a person may have to provide food, shelter, clothing, education and such other basic needs. State Transport Corporation, has failed to apply the principles of good conscience, equity and justice and without any reason or rhyme, has assailed the monthly contribution at Rs.6,000/-per month i.e., just Rs.200/- per day. There are some inevitable expenses, such as Electricity charges, water tax, transportation etc. Wife, four minor children and mother have been put to inexplicable agony and filing of this appeal, without any basis, is nothing but an attempt to protract payment. It appears that the present appeal has been filed, just for the sake of filing an appeal, without understanding the principles contained in the beneficial legislation of payment of just compensation to the

accident victims / legal representatives of the deceased, as the case may be, who require to be compensated expeditiously, atleast to mitigate the suffering and loss.

7. Compensation awarded under other heads, stated supra, is a pittance. Though, it is a fit case to be dismissed with costs, hoping that Tamilnadu State Transport Corporation Limited, Villupuram Division-III, Kancheepuram, would not engage in filing such frivolous appeals, we refrain from doing so. The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

8. Consequent to the dismissal of the appeal, the appellant-transport Corporation, is directed to deposit the entire award amount with interest at the rate of 7.5% per annum, from the date of claim and costs, to the credit of MCOP No.319 of 2011 on the file of Motor Accidents Claims Tribunal, [Subordinate Court], Tiruttani, within a period of two weeks from the date of receipt of a copy of this order, failing which respondents/claimants are at liberty to seek for attachment of buses owned by Tamilnadu State Transport Corporation Limited, Villupuram Division-III, Kancheepuram.

9. Respondents 2 to 5 were minors at the time of filing of the claim petition. On such deposit being made, except minors, the respondents/claimants 1 and 6 are permitted to withdraw their share, as apportioned by the tribunal, by making necessary applications. Share apportioned to the minors/respondents 2 to 5, shall be in the bank deposit till they attain majority. The interest accruing on the share of the minors shall be paid to the 1st respondent/mother of the minors once in three months, till they attain majority. On attainment of majority, they shall file necessary applications for withdrawal.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1.The Motor Accident Claims Tribunal,
[Sub Judge], Tiruttani.

2.The Secretary,Transport Department,Government of Tamil Nadu,
Chennai-9.

+lcc to Mr.S.Sairaman,Advocate sr.19999

C.M.A.No.1185 of 2017
and CMP No.5916 of 2017

rsy(co)

ss(4/4/2017)