

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2017

C O R A M

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

C.M.A. No.1571 of 2016
and
C.M.P.No.11891 of 2016

Tamil Nadu State Transport Corporation
Villupuram Division
Rep. by its Managing Director
Villupuram ... Appellant/1st Respondent

Vs

1.K.Kalavathy
2.Minor Rathika
Rep. by her mother and natural
Guardian Mrs.Kalavathy ...1st & 2nd Respondents/
Petitioners
3.Padma
Louis (deceased) ...3rd Respondent/2nd Respondent

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988, against the judgment and decree in
M.C.O.P.No.3871 of 2008, dated 12.02.2016, on the file of
Motor Accidents Claims Tribunal (II Special Sub Court, Court
of Small Causes), Chennai.

For Appellant : Mr.S.Sairaman

For Respondents: Mr.K.Varadha Kamaraj
for R1 & R2

J U D G M E N T

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

Being aggrieved by the quantum of compensation of
Rs.25,69,000/- with interest, at the rate of 7.5% per annum,
from the date of claim, till deposit and costs, awarded to the
legal representatives of the deceased, appellant/Tamil Nadu
State Transport Corporation, Villupuram, has filed the instant
appeal. At the time of accident, the deceased, was aged 25
years.

2. Going through the award and material on record, it is deduced that Karthikeyan, sole breadwinner of the respondents, while riding his motor cycle, bearing Registration No.TN 05 2 9628, from Chennai to Trichy on Villupuram - Ulundurpet National Highways 45, near Fair Price Shop, Ulundurpet, a bus belonging to the appellant/Tamil Nadu State Transport Corporation, bearing Registration No.TN 32 N 2482, driven by its driver, in a rash and negligent manner, which came in the opposite direction, dashed against the motorcyclist, due to which, he sustained multiple injuries and died on the spot. A case in Crime No.212 of 2008 on the file of Ulundurpet Police Station has been registered.

3. Wife and minor daughter of the deceased have filed M.C.O.P. No.3871 of 2008, on the file of Motor Accidents Claims Tribunal (II Special Sub Court, Court of Small Causes), Chennai, claiming compensation under various heads. On the basis of oral and documentary evidence, the Claims Tribunal held that the driver of the bus belonging to the appellant transport corporation, was negligent in causing the accident. Fixing the monthly income as Rs.15,000/- (inclusive of 50% future prospects), the Tribunal awarded compensation of Rs.25,69,000/-, with interest, at the rate of 7.5% per annum, and costs, as follows:-

Loss of contribution to family...	Rs. 21,60,000/-
(Rs.12,300 x 3/4 x 12 x 16)	
Loss of consortium	Rs. 1,00,000/-
Loss of love and affection for mother	Rs. 2,00,000/-
Loss of expectation of life	Rs. 75,000/-
Damage to clothes and articles...	Rs. 3,500/-
Transportation	Rs. 5,500/-
Funeral Expenses	Rs. 25,000/-

Rs. 25,69,000/-

4. Being aggrieved by the judgment of the Tribunal fixing the monthly income as Rs.10,000/- and contending inter alia that compensation awarded under other heads, as excessive, appellant/ Tamil Nadu State Transport Corporation, Villupuram Division, has filed the instant appeal. We have requested the learned counsel for both parties to consider the award made under various heads and to arrive at a consensus, as to whether compensation could be reduced, under some of the heads.

5. Going through the same and after deliberation, learned counsel for the parties, on consensus agreed that the monthly income of the deceased be fixed as Rs.8,000/- instead of Rs.10,000/- as fixed by the Tribunal. As the Tribunal has awarded less compensation under some head and excess compensation under some other heads, both the learned counsel have arrived at a consensus for modifying the compensation under those heads. Hence, after considering all the factors, compensation awarded by the tribunal shall be reduced to Rs.20,15,000/- as hereunder:

Loss of contribution to family...	Rs.17,28,000/-
(Rs.12,000 x 2/3 x 12 x 18)	
Loss of consortium	 Rs. 1,00,000/-
Loss of love and affection to ...	Rs. 1,00,000/-
minor child	
Loss of love and affection to	
mother of the deceased	 Rs. 50,000/-
Funeral Expenses	 Rs. 25,000/-
Transportation	 Rs. 10,000/-
Damages to clothes and articles...	Rs. 2,000/-

	Rs. 20,15,000/-

6. In the light of consensus arrived at, the compensation, to which the legal representatives/respondents would be entitled, is fixed at Rs.20,15,000/-, as against Rs.25,69,000/- awarded by the tribunal, with interest, at the rate of 7.5% per annum, from the date of claim till deposit. Hence, there shall be a reduction of Rs.5,54,000/-. Compensation amount, now determined by this court, is apportioned as under:

Wife	: Rs. 6,00,000/-
Minor Rathika	: Rs.10,00,000/-
Mother	: Rs. 4,15,000/-

Total	: Rs.20,15,000/-

7. Appellant/Tamil Nadu State Transport Corporation, Villupuram Division, is directed to deposit the compensation amount of Rs.20,15,000/- now determined by this court along with interest at the rate of 7.5% per annum and costs, to the credit of M.C.O.P. No.3871 of 2008 on the file of Motor Accident Claims Tribunal (II Special Sub Court, Court of Small Causes), Chennai, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the

first respondent/wife of the deceased and the 3rd respondent/mother of the deceased, are permitted to withdraw their shares, by filing proper application before the Tribunal. Share of the minor Rathika, namely respondent No.2, is directed to be deposited in any one of the Nationalised Banks under reinvestment scheme, proximate to the residence of the first respondent/mother of minor Rathika and renewable thereafter. Respondent No.1/mother of the minor child is permitted to withdraw interest once in three months, till the minor child attains majority. Tribunal is directed, to disburse the amount only on proper identification and proof.

8. The Civil Miscellaneous Appeal is partly allowed as indicated above. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

asr

To

The Motor Accident Claims Tribunal
(II Special Sub Court, Court of Small Causes), Chennai.

+1cc to M/s.S.Sairaman,Advocate sr.42351

+1cc to Mr.K.Varadha Kamaraj,Advocate sr.42164

सत्यमेव जयते

C.M.A.No.1571 of 2016

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ss(28/8/2017)

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