

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 14.02.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.153 of 2017

and

CMP.No.1032 of 2017

The Managing Director
Tamil Nadu State Transport Corporation
Having Office at No.12, Ramakrishna Road,
Salem-7. ... Appellant/Respondent

Versus

1. Ravichandran
2. Minor Lingeshwaran
3. Minor Boobalan
Minors represented by their next
Friend and father Mr.Ravichandran Respondents/Petitioners

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 16.02.2016 made in M.C.O.P.No.148 of 2014 on the file of the Motor Accident Claims Tribunal, Special District Judge, Krishnagiri.

For appellant : Mr.D.Venkatachalam

J U D G M E N T

Challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal, in M.C.O.P.No.148 of 2014,dated 16.02.2016 , the Transport Corporation has filed this Civil Miscellaneous Appeal.

2. The deceased, aged 35 years, who was selected as a Typist in TNPSC Group IV test held in the year 2013 and was also working as Office Superintendent in private import & export Company in Chennai, earning a sum of Rs. 20,000/- per month and who was maintaining her husband and two minor children, died in an accident that took place on 04.03.2014.

3. Claiming a sum of Rs.25,00,000/-, as compensation, the Legal Representatives of the deceased filed claim petition for compensation.

4. The Tribunal, after considering the submissions made on either side and also on considering the oral and documentary evidence has awarded a sum of Rs.21,50,000/-, along with interest and costs. Challenging the same, the transport Corporation has filed this appeal.

5. The main contention of the learned counsel for the appellant is that the trial Judge ought not to have fixed the monthly salary at Rs.15,000/-, which is on the higher side. Yet another contention of the learned counsel for the appellant is that when the tribunal has rejected the pay slip filed by the claimants, the tribunal ought not to have fixed a sum of Rs.15,000/- as salary of the deceased and the tribunal ought to have fixed the monthly income as per the Judgment in Syed Sadiq Vs. Deputy Manager, United India Insurance Co. Ltd., reported in 2014 (1) TNMAC 459.

6. To appreciate these contentions, it is necessary to consider the break-up details of the award which would throw light on the issue as to whether the fixation of a sum of Rs.15,000/- as monthly income is justified or not.

7. Based upon First Information Report-Ex.P1 and Post Mortem Report-Ex.P2, the age of the deceased has been fixed as 35, in respect of which the appropriate multiplier is 16. In Ex.P12-salary slip, income of the deceased is mentioned as Rs.15,000/- per month. The defense of the transport corporation is that Ex.P12-salary slip is not the authentic certificate, since there was no deduction of Provident Fund and other deductions shown in the pay slip. However, the tribunal has taken into account of the fact that deceased had been selected as typist in TNPSC Group 4 test conducted by TNPSC. Therefore, fixation of monthly income of the deceased at Rs.15,000/-, cannot be faulted with.

8. The tribunal, fixing monthly income at Rs.15,000/- per month and after deducting $1/3^{\text{rd}}$ towards the personal expenses, and by adopting the multiplier 16 has awarded a sum of Rs. 19,20,000/- ($10,000 \times 12 \times 16$) towards loss of dependancy. The tribunal has awarded a sum of Rs.3,000/- towards transport expenses, Rs.2,000/- towards damage to clothes, Rs.1,00,000/- towards loss of consortium to husband, Rs.50,000/- to each children, towards Loss of love and affection and sum of Rs.25,000/- towards funeral expenses, and totally a sum of Rs.21,50,000/- has awarded which is reasonable.

9. It is relevant to point out that future prospective increase in income has not been considered even though the deceased was aged only 35. Under such circumstances, even

assuming that a sum of Rs.15,000/- on the higher side, since the future prospective income has not been considered, the fixation of a sum of Rs.15,000/- as monthly income cannot be said to be excessive and the award is reasonable.

7. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the Judgement and Decree dated 16.02.2016, made in M.C.O.P.No.148 of 2014, on the file of Motor Accident Claims Tribunal, Special District Judge, Krishnagiri. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal, Special District Court, Krishnagiri.

+1cc to Mr.D. Venkatachalam, Advocate, S.R.No.9521

pa(CO)
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