

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. No.1579 of 2017

and

C.M.P. No.8305 of 2017

State Express Transport Corporation Ltd.,
Rep. by its Managing Director,
Pallavan Salai,
Chennai.

.. Appellant/Respondent

Versus

1. Lakshmi

2. Parameswari (Minor)

Rep by father and next friend
the 3rd Petitioner)

3. Kanniappan

4. Narayani

.. Respondents/Petitioners

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 21.07.2011 made in M.C.O.P. No.3129 of 2007 on the file of the Motor Accident Claims Tribunal, The Chief Small Causes Court, Chennai.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

The deceased Gopi, aged 27 years, a Painter by profession earning a sum of Rs.300/- per day, died in an accident on 07.07.2007. This accident had taken place, while the deceased had been travelling as a passenger in a bus belonging to the appellant. Claiming a sum of Rs.15,00,000/- as compensation, the legal representatives of the deceased have filed the claim petition in M.C.O.P.No.3129 of 2007 before the Motor Accidents Claims Tribunal, Chennai.

2. The first claimant is the wife of the deceased aged 22 years and the second claimant is the daughter (since died); the third claimant is the minor sister; the fourth petitioner aged about 55 years is the father and the fifth petitioner aged about 45 years is the mother, who have jointly applied for compensation in respect of the deceased.

3. The Tribunal on consideration of materials placed before it, awarded a sum of Rs.6,42,000/-. Challenging the award as excessive, the transport corporation has filed this appeal.

4. The main contention of the learned counsel for the appellant is that there was no valid document to show the age of the deceased and that there was no document showing income of the deceased and therefore the award is on the higher side.

5. At the inception itself, the learned counsel for the appellant pointed out that the second claimant is dead during the pendency of the claim petition and therefore the claim as against the second respondent has abated. It is also pointed out that the third claimant Parameswari is not the legal representative of the deceased and therefore no claim is made by the third respondent, there was a finding that claimants 1, 4 and 5 as wife and parents of the deceased alone are the legal representatives of the deceased and they alone are entitled for compensation.

6. So far as the income of the deceased is concerned, the Tribunal has relied on the evidence of PW3 Sivakumar to find corroboration of statement of claimants that the deceased was working as a Painter and he was earning a sum of Rs.300/- per day. As PW3 did not produce any documentary evidence, the income of the deceased has been fixed at Rs.4,500/-p.m.; deducting 1/3 towards personal expenses and adopting multiplier of 17, the loss of dependency has been fixed at Rs.6,12,000/- (Rs.4,500/- x 12 less 1/3 = Rs.3000/- x 12 x 17)

The following are the breakup details of the award :-

Loss of dependency	: Rs.6,12,000/-
Loss of consortium awarded	: Rs. 10,000/-
Love and affection	: Rs. 10,000/-
Funeral and transport expenses:	Rs. 10,000/-

Total	Rs.6,42,000/-

7. This claim pertains to accident of the year 2007. The claimants have not chosen to file any independent appeal or cross objection to this appeal.

8. The appellant cannot have any grievance over the award amount because of the reasons stated below :-

Despite the oral evidence produced, the Tribunal has chosen to fix the monthly income, on a notional basis at Rs.4500/- which is claimed to be on the lower side.

1. Future prospective increase in income has not been considered, while fixing the monthly dependency.

2. The award towards loss of love and affection is also meagre

9. From the discussion, with regard to reasonability of the award, it is evident that the award cannot be said to be excessive. There are no grounds to reduce the quantum of compensation. Hence, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-

Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Motor Accident Claims Tribunal,
The Chief Small Causes Court,
Chennai

+1 cc to Mr.K.J.Sivakumar Advocate sr 41995

C.M.A No.1579 of 2017

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