

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.426 of 2015

and

M.P.No.1 of 2015

The Managing Director
Tamil Nadu State Transport
Corporation
No. 12, Ramakrishna Road,
Salem-7

... Appellant/Respondent

Vs.

1. Gomathi

2. Minor Gokulraj

3. Minor Sanjai

... Minor rep by their Mother Gomathi

4. Kamatchi

5. Minor Janani

... Minor rep by her Mother Kamatchi

6. Papathi

... Respondents/Petitioners

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 31.10.2012 made in M.C.O.P.No.707 of 2011 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Namakkal.

For Appellant

: Mr.D.Venkatachalam

For Respondents

: Mr.Ma.Pa.Thangavel

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.707 of 2011, dated 31.10.2012, the Transport Corporation has come forward with this Civil Miscellaneous Appeal.

2. The deceased, who was 34 years, a driver by profession earning a sum of Rs.10,000/- per month died in an accident that occurred on 06.10.2011. Hence, his mother, first wife, second wife and children, as legal representatives has filed a claim petition in M.C.O.P.No.707 of 2011, claiming compensation for a sum of Rs.10,00,000/-

3. The Tribunal, on consideration of oral and documentary evidence has awarded a sum of Rs.9,15,000/-, with interest @ 7.5% per annum from the date of petition till the date of deposit. Challenging the same, the Transport Corporation is before this Court, by way of this appeal.

4. The Claims Tribunal, by considering Ex.P2 and Ex.P3- Post mortem certificate and death certificate respectively has taken the age of the deceased as 38 and by considering Exs.P15 and P16 has fixed the salary at Rs.6,500/- per month and by deducting 1/4th towards personal expenses and by applying multiplier 16 has awarded a sum of Rs.8,64,000/- (6500x12x1/14x16) towards loss of dependency and in addition to that a sum of Rs.5,000/- was awarded towards funeral expenses, a sum of Rs.77,000/- was awarded towards medical expenses, a sum of Rs.20,000/- was awarded towards loss of Love and affection and a sum of Rs.26,000/- was awarded towards loss of consortium.

5. Heard both sides and perused the materials available on record.

6. The learned counsel for the appellant submitted that as per the decision of the Hon'ble Supreme Court in SARLA VERMA AND OTHERS VS. DELHI TRANSPORT CORPORATION AND ANOTHER reported in (2009) 4 MLJ 997, the Claims Tribunal ought to have adopted multiplier of 15, but the tribunal has adopted the multiplier of 16, which is incorrect. He would further submit that the compensation awarded under the other heads are also excessive and the same needs to be reduced.

7. The learned counsel appearing for the respondents has submitted that the Claims Tribunal on consideration of oral and documentary has rightly awarded the compensation and the same does not warrant any interference.

8. Heard both sides. Perused the materials on record.

9. Considering the fact that though the multiplier '16' was adopted, the tribunal has failed to consider the future prospective income which would be much more than the amount that would be derived if multiplier of 16 is adopted. Hence, this Court is not inclined to interfere with the same. The amount awarded under other heads are also reasonable and the same does not warrant any interference.

10. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the Judgment and decree of the Claims Tribunal, in M.C.O.P.No.707 of 2011 dated 31.10.2012. The Transport Corporation is directed to deposit the entire amount

of compensation within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants 1,4 and 6 are permitted to withdraw their shares as apportioned by the tribunal and the shares of the claimants 2,3 and 5 shall be deposited in any one of the nationalised banks till they attain majority and the guardian of the minor claimants is permitted to withdraw the interest once in three months. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
Additional District Judge, Namakkal.

+1cc to Mr.D.Venkatachalam, Advocate 16912

+1cc to M/S.Ma.P.Thangavel, Advocate Sr.16885

CMA.No.426 of 2015

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