

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.3640 of 2011
and M.P.No.1 of 2011

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Salem Division - 2,
Bharathipuram, Dharmapuri ...Appellant/Respondent

..vs..

Salammal ...Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 11.11.2010 made in M.C.O.P.No.1315 of 2008 on the file of the Motor Accident Claims Tribunal, Principal District Court, Krishnagiri.

For Appellant : Mr. V.Ramesh
For Respondent : Mr. I.Siddiq, for
M/s. Dass & Viswa Associates

J U D G M E N T

This Appeal has been filed by the Transport Corporation, challenging the quantum of compensation awarded.

2. The Claimant, Salammal, has filed the claim petition, for compensation, in respect of the death of her son, Manjunathan, in a motor vehicle accident, that took place on 15.11.2007.

3. Contending that the claimant has suffered loss of earnings and loss of love and affection, claim petition has been filed, claiming a sum of Rs.6,00,000/-, as compensation.

4. As against the claim made, the Tribunal has passed an award for a sum of Rs.5,91,000/-. Challenging the award as excessive, the Transport corporation has filed this Appeal.

5. The learned counsel for the appellant / Transport Corporation would submit that the award passed by the Claims Tribunal is on the higher side and the Tribunal committed mistake in fixing the monthly income of the deceased, multiplier chosen and as well as deductions made.

6. In order to appreciate the contentions raised, it is necessary to find out the parameters, based on which the Tribunal has passed the Award.

7. The Tribunal has relied upon the evidence of P.W.1, the mother, wherein she has stated that the deceased was hale and healthy, at the time of accident and by doing agricultural work, he was earning more than Rs.5,000/- per month and contributed the entire amount for the welfare of the family.

8. Relying upon the postmortem certificate, the age of the deceased has been fixed as 25. Considering the age of the deceased as 25, the multiplier of '18' has been adopted. In the absence of any documentary evidence, the monthly income has been taken at Rs.4,000/-, fixing the annual income at Rs.48,000/- and deducting 1/3rd towards the personal and living expenses of the deceased, the dependency has been calculated at Rs.32,000/- per annum. Adopting the multiplier of 18, loss of dependency has been quantified at Rs.5,76,000/-. Awarding a sum of Rs.10,000/- towards loss to estate, funeral expenses at Rs.5,000/-, the total amount has been quantified at Rs.5,91,000/-.

9. The learned counsel for the appellant / Insurance Company would submit that when the deceased was a bachelor, the Tribunal should have made deductions at 50% towards the personal and living expenses and the Tribunal committed mistake in deducting only 1/3rd towards the personal expenses.

10. The contention of the learned counsel for the appellant may hold good under normal circumstances, but not in the facts and circumstances of this case. Generally, 50% deduction is done in the case of death of a bachelor towards personal and living expenses. The fact remains that the dependent mother is a widow, depending wholly upon the income of the deceased. The widowed mother has specifically stated that the son used to spend all the amount towards the welfare of the family. In the absence of the father the total and complete liability to maintain the mother lies upon the deceased. Under such circumstances, the deceased is not expected to spend 50% of the income towards personal and living expenses and that is what is spoken to in the evidence by the mother.

11. In the given set of circumstances, the Tribunal has chosen to deduct 1/3rd towards the personal and living expenses. Even assuming that this deduction is not proper, the Tribunal did not take into account the future prospective increase in income of the deceased. If that had been taken into account, even the deduction of 1/3rd would not have made any difference in the quantum of compensation awarded.

12. Under such circumstances, the award of compensation passed by the Claims Tribunal is reasonable, just, fair and does not require any interference by this Court.

13. In the result, the Appeal has no merits and thus, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected MP is closed.

14. Despite the interim order, dated 12.01.2012, passed by this Court, the appellant / Transport Corporation has not deposited the amount yet. Considering the fact that the claimant is a widow and the case is pending for a long time and despite the interim order not being complied with by the appellant, this Court expects that the Transport Corporation / appellant herein would deposit the amount of compensation, as awarded by the Tribunal, along with interest at 7.5% per annum, from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the amount to the credit of the the claimant / respondent herein, through RTGS.

15. List this case during during third week of December 2017, for reporting compliance.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srk

To

1. Motor Accident Claims Tribunal, Principal District Court, Krishnagiri.
2. The Section Officer, V.R.Section, Madras High Court, Chennai 104

+1cc to M/s.Dass Law Associates, SR.No.56545

C.M.A.No.3640 of 2011
& M.P.No.1 of 2011

NMI (CO)
sm:4.12.2017