

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2017

CORAM:

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

C.M.A.NO.786 OF 2016
AND CMP NO.6400 OF 2016

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
(Villupuram Division III)
Kanchipuram Region. ... Appellant/Respondent

Versus

1.G.Jothi
2.A.Dhanakotti Respondents /Claimants

PRAYER: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.06.2015 made in MCOP No.438 of 2013 on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : Mr.J.Lokesh for M/s.K.J.SivaKumar

For Respondents : Ms.Ramya V.Rao

सत्यमेव जयते
J U D G M E N T

(JUDGMENT OF THE COURT WAS MADE BY M.GOVINDARAJ, J.)

Challenging the award of compensation dated 24.06.2015 passed in M.C.O.P.No.438 of 2013, by the Motor Accidents Claims Tribunal (IV Court of Small Causes) Chennai, Tamil Nadu State Transport Corporation Ltd., Villupuram Division - III, Kanchipuram Region, has preferred the above appeal mainly on the grounds of quantum.

2. The accident had taken place on 05.09.2012, at about 08.45 hours, while the deceased was riding his motorcycle,

bearing Registration No.TN22-BZ-7529, proceedings towards Sevrur Village to Chennai, at O.M.R. Road. At that time, a Bus, bearing Registration No.TN21-N-1057, belonging to the appellant / Transport Corporation, driven by its driver, in a rash and negligent manner, hit the motorcycle, which was coming in the opposite direction, in an attempt to overtake another vehicle, in which, the motorcyclist sustained grievous injuries in all over the body and died on the spot. On the death of the motorcyclist, the legal representatives have laid a claim for compensation of Rs.35,00,000/-.

3. Before the Tribunal, the appellant / Transport Corporation denied negligence and liability.

4. The Tribunal, after going through the pleadings, has discussed the issues of negligence and quantum of compensation claimed. The Tribunal, based on the evidence of P.W.1- wife and P.W.2- eyewitness to the accident and as per Ex.P1 - First Information Report, had come to the conclusion that the Driver of the bus was negligent.

5. In so far as the quantum of compensation is concerned, the learned counsel appearing for the appellant / Transport Corporation has raised serious objection to the award granted by the Tribunal. The first and foremost objection was that the income of the deceased was not proved. The deceased was said to have been working as a Sales Representative and earned Rs.15,000/- per month. P.W.3 was working in the company, where the deceased was employed. He let in evidence that the deceased was given a monthly salary of Rs.6,500/- on his entry into service. Thereafter, his salary was increased. He would further depose that on confirmation, his salary will be further increased and on promotion, after expiry of four years, salary will be further increased to Rs.17,000/-. His evidence was supported by Ex.P8. Therefore, the Tribunal has arrived at a conclusion that the income of the deceased would be at Rs.15,000/- per month.

6. The Tribunal has observed that P.W.3 has not marked any documents and accounts particulars to prove the income of the deceased. But, from the perusal of the exhibits marked before the Tribunal, we could see the salary certificate and Ex.P13 - appointment order issued to the deceased by the employer. The deceased was said to have been receiving Rs.11,830/- per month, which is borne out by Ex.P8. The deceased was aged about 27 years as found from Ex.P6 - driving license. So, on considering the future prospects, it can be easily inferred that the income fixed by the Tribunal at Rs.15,000/- per month is not excessive.

7. Even otherwise, in the present day, taking into

account the consumer price index and living cost, a person need to earn minimum Rs.15,000/- per month, for running a family. Even in the case of workers, a minimum wages is found to be Rs.300/- to 500/- per day. Whereas in the present case, the deceased is said to have been a Sales Representative and it is proved by the appointment order and salary certificate given by the employer. P.W.3, a person authorized by the Company to depose before the Court also clearly let in evidence that the deceased was earning Rs.11,830/- per month and as future prospects of getting promotion and earning more than Rs.17,000/- per month after a period of four years. Considering the totality of the circumstances, we hold that the income fixed by the Tribunal at Rs.15,000/- per month inclusive of future prospects is just and need not be interfered with.

8. The deceased was aged about 27 years at the time of accident, as proved by Ex.P6 - driving license. On the basis of the judgment of the Hon'ble Supreme Court in SARLA VERMA (SMT) AND OTHERS VS. DELHI TRANSPORT CORPORATION AND ANOTHER [2009 (6) SCC 121] the Tribunal has fixed the multiplier at 17.

9. On the basis of the very same judgment cited supra, living and personal expenses of the deceased was deducted 1/3rd considering the dependents viz., wife and widowed mother. Accordingly, the annual income was arrived at Rs.1,80,000/- and after deducting 1/3rd, the annual income was taken as Rs.1,20,000/-. Based on the same, loss of contribution to the family was arrived at Rs.20,40,000/-. The finding of the Tribunal on the issue of contribution to the family is just and proper, and thus, need not be interfered with.

10. Further, we find that the Tribunal has awarded a sum of Rs.2,00,000/- towards loss of consortium to the wife. We feel that it is on the higher side and accordingly, we reduce it by Rs.1,00,000/-.

11. A sum of Rs.1,00,000/- was awarded to the mother towards loss of love and affection and Rs.25,000/- towards funeral expenses. Thus, the Tribunal awarded compensation at Rs.23,65,000/-, which reads as under:

Heads	Amount awarded Rs.
Loss of dependency (Rs.1,20,000 X 17)	20,40,000.00
Loss of consortium to the wife	2,00,000.00
Loss of love and affection to the mother	1,00,000.00

Heads	Amount awarded Rs.
Funeral expenses	25,000.00
Total compensation	23,65,000.00

12. Now, we reduce the compensation awarded under the head loss of consortium to the wife by Rs.1,00,000/- from Rs.2,00,000/-. Accordingly, we determine the total compensation as Rs.22,65,000/-, which reads as under:

Heads	Amount awarded Rs.
Loss of dependency (Rs.1,20,000 X 17)	20,40,000.00
Loss of consortium to the wife	1,00,000.00
Loss of love and affection to the mother	1,00,000.00
Funeral expenses	25,000.00
Total compensation	22,65,000.00

13. The appellant / Transport Corporation is directed to deposit the entire award amount, now determined by this Court, with proportionate interest at the rate of 7.5% per annum and costs, from the date of petition, till the date of realization, within a period of four weeks from the date of receipt of a copy of this order, to the credit of MCOP No.438 of 2013, on the file of Motor Accidents Claims Tribunal (IV Small Causes Court) Chennai. On such deposit being made, the respondents / claimants are permitted to withdraw their respective shares, on filing proper applications before the Tribunal.

14. The Civil Miscellaneous Appeal is disposed of with the above observation and direction. No costs. Consequently, connected civil miscellaneous petition is closed.

15. Post this matter after four weeks under the caption "for reporting compliance"

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

TK

To

1.The IV Judge,
The Motor Accidents Claims Tribunal,
(IV Small Causes Court),
Chennai.

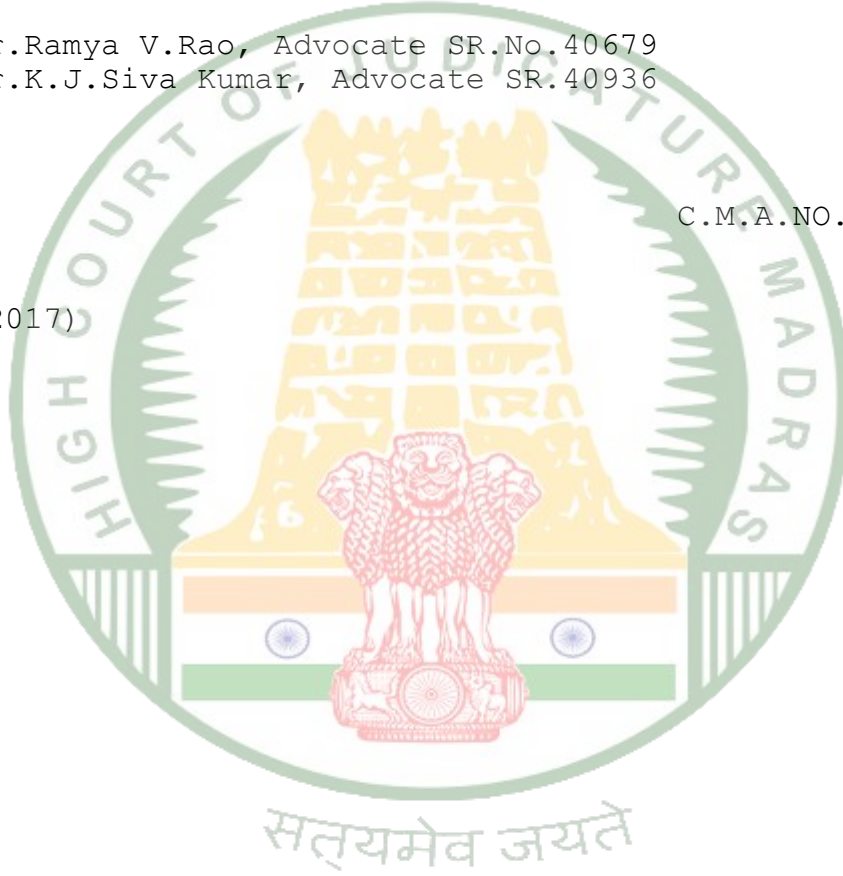
2.The Section Officer,
VR Section,
High Court,
Madras.

+2cc to Mr.Ramya V.Rao, Advocate SR.No.40679

+1cc to Mr.K.J.Siva Kumar, Advocate SR.40936

C.M.A.NO.786 OF 2016

KJI (CO)
GN(26/07/2017)



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