

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2111 of 2017

and

C.M.P.No.11179 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
Chennimalai Road,
Erode. Appellant/2nd Respondent

Vs.

1.M.Selvi
2.M.Parireivan
3.M.Sakthivel
4.Kunjayal
5.Subbu Pandaram @ Subramanai Respondents/Petitioners
6.G.K.Shanmugam Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 01.06.2016 made in M.C.O.P.No.259 of 2015 on the file of the Motor Accident Claims Tribunal, the III Additional District and Sessions Judge Gobichettipalayam.

For Appellant : Mr.K.J.Siyakumar

For Respondents : Mr.Ma.Pa.Thangavel
(R-1 to R-5)

WEB COPY

J U D G M E N T

Challenging the quantum of compensation awarded at Rs.9,49,000/-, as against the claim made for a sum of Rs.20,00,000/-, as excessive and disproportionate, the Transport Corporation has filed this appeal.

2. Claim petition in M.C.O.P.No.31 of 2015 has been filed by the legal representatives of the deceased Moorthi; the first claimant as the wife, second and third claimants as the sons, fourth and fifth claimants as parents have filed the claim petition for compensation.

3. The Tribunal has quantified the compensation with the following break up details:-

1. Loss of dependency-Annual income
Rs.7,000x12=84,000/- Less 1/3
(Rs.28,000/-) = Rs.56,000x13 =
Rs.7,28,000 : Rs.7,28,000/-
2. Loss of consortium for
1st Respondent : Rs. 50,000/-
3. Loss of love and affection
each Rs.25,000/-for 2 to
5 petitioners : Rs.1,00,00,000/-
4. Transport Expenses : Rs. 5,000/-
5. Funeral expenses : Rs. 10,000/-
6. Loss of Estate : Rs.56,000/-
- Total : Rs.9,49,000/-

4. While considering the loss of dependency, monthly income has been fixed at Rs.7,000/-. In the absence any evidence regarding the actual income earned and considering the fact that the deceased was aged 48, adopting multiplier of 13 and deducting 1/3rd towards personal expenses, the loss of dependency has been quantified at Rs.7,28,000/- (7,000x12 = Rs.84,000/-) less (1/3 Rs.56,000/-)x13.

5. The learned counsel for the appellant, would submit that the fixing of monthly income at Rs.7,000/- is excessive in the absence of any evidence and therefore the monthly income should be taken only at the minimum rate of wages applicable to any daily wage worker.

6. The learned counsel appearing for the respondents 1 to 5 would submit that the fixing of monthly income at Rs7,000/- is perfectly justified and it is pertinent to note that the future prospective increase in income has not been considered at all.

7. The learned counsel appearing for the claimant would point out that when there are large number of dependants, the deduction of 1/3rd is not justifiable and the Tribunal ought to have deducted only 1/4th towards personal expenses.

8. However, the learned counsel appearing for the respondents 1 to 5 would point out that there are no minor dependence and when the claimants are self sufficient to manage themselves, the deduction of 1/3rd is justifiable.

9. Under the stated circumstances the award passed on each and every heads is reasonable and it does not require any interference by this Court.

is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

11. The Appellant/ Transport Corporation is directed to deposit the entire award amount along with interest and costs as awarded by the claims Tribunal, 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 award amount directly to the bank accounts of the claimants through RTGS within a period of two weeks, as apportioned by the claims Tribunal.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kv/sms

To

The III Additional District and Sessions Judge,
Gobichettipalayam.

+1cc to Mr.Ma.Pa.Thangavel, Advocate, S.R.No.52142

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.51599

C.M.A.No.2111 of 2017
and

C.M.P.No.11179 of 2017

PPA(CO)
CA(24/10/2017)

सत्यमेव जयते

WEB COPY