

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 19.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.240 of 2017 &
C.M.P.No.1560 of 2017

The Managing Director
Tamil Nadu State Transport Corporation
(Kumbakonam Division)
Kumbakonam .. Appellant/2nd Respondent

Versus

1.Devaki
2.Kalpana ... Respondents 1 & 2 /Claimants
3.The Managing Director
State Express Transport Corporation
Chennai. 3rd Respondent/1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 26.02.2016 made in M.C.O.P.No.1054 of 2014 on the file of the Motor Accident Claims Tribunal, (Additional District Judge-III), Puducherry.

For appellant : Mr.D.Venkatachalam

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal, in M.C.O.P.No.1054 of 2014,dated 26.02.2016, the Transport Corporation has filed this Civil Miscellaneous Appeal.

2. The deceased, Perumal, aged 24 years, working as Financial Advisor in Bharathi AXA Life Insurance Company, earning a sum of Rs. 20,000/- p.m. died in the accident on 11.05.2008. Hence, the mother and sister of the deceased have filed the claim petition in M.A.C.T.O.P.No.1054 of 2014, claiming a sum of Rs.50,00,000/- as compensation.

3. The Tribunal, considering the oral and documentary evidence awarded a sum of Rs.12,50,000/-, the break-up details of which are as hereunder:

Pecuniary Loss	-	Rs.10,20,000/-
(Rs.10,000x12x17-1/2)		
Funeral Expenses	-	Rs. 30,000/-
Mental Agony	-	Rs. 1,00,000/-

Love and affection - Rs. 1,00,000/-

Rs.12,50,000/-

Aggrieved against the said compensation awarded, the appellant has filed the present appeal challenging the same as excessive and unreasonable.

4. It is contended by the learned learned counsel for the appellant that the monthly income fixed by the Tribunal at Rs.10,000/- is on the higher side. In the absence of any proof of income, the tribunal ought to have fixed the notional income at Rs.6,500/-. To substantiate the said contention, reliance was placed on the decision of the Apex Court in Syed Sadiq Vs. Deputy Manager, United India Insurance Co. Ltd., reported in 2014 (1) TNMAC 459. It is further contended by the learned counsel for the appellant that the compensation of Rs.1,00,000/- each, awarded under the heads, love and affection and mental agony as also the compensation awarded under the head funeral expenses are on the higher side and requires to be reduced.

5. Though the contentions, as noticed above, have been advanced by the appellant, the said contentions cannot be accepted for the reasons stated hereunder. The deceased was aged only 24 years at the time of his death. A perusal of the compensation awarded would reveal that though the Tribunal has adopted the proper multiplier, however, the Tribunal has not considered the future prospective increase in income. Therefore, even if it is to be presumed that the notional income should be taken, adding future prospective increase to the same would bring the income to the level taken by the Tribunal. Therefore, this Court is of the considered view that no interference is warranted with regard to the compensation awarded under the head pecuniary loss.

6. Insofar as the contention relating to excessive compensation under the heads mental agony and loss of love and affection, the age of the deceased would be a determinative factor. The deceased was aged 24 years on the date of the accident. The agony the mother/1st claimant would have faced on the loss of her son cannot be compensated with any amount. Similarly, the sister of the deceased would have looked upon her brother for settling her in life, which dream has been thwarted due to the untimely accident of the deceased. Therefore, the loss cannot be compensated by any means and, therefore, the compensation awarded under the above heads at Rs.1,00,000/- each cannot be said to be excessive and, therefore, the same does not require any interference.

7. Insofar as the compensation awarded under the head funeral expenses is concerned, it is rather on the higher side.

However, it is seen that no amount has been awarded under the head transportation and loss of estate. Therefore, this Court feels that while the amount under the head 'Funeral Expenses' could be reduced to Rs.15,000/-, an amount of Rs.15,000/- should be awarded under the head 'Transportation & Loss of Estate'. Accordingly, Rs.15,000/- is awarded as compensation under the head funeral expenses and Rs.15,000/- is awarded under the head 'Transportation & Loss of Estate.

8. For the reasons aforesaid, this Court finds no reason to interfere with the compensation awarded by the Tribunal. No grounds, much less substantial grounds having been made out to interfere with the order passed by the Tribunal, this appeal deserves to be dismissed.

9. Accordingly, this appeal is dismissed, however modifying the compensation awarded under the heads funeral expenses and Transportation & Loss of Estate as stated above. Consequently, connected miscellaneous petition is closed.

10. The appellant is directed to deposit the entire award amount together with interest from the date of claim petition till date of deposit, less the amount, if any, already deposited, to the credit of the claim petition within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal shall transfer the respective share of the claimants as per the apportionment ordered directly to the Bank Account of the claimants through RTGS within a period of two weeks thereafter.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

arr/GLN

To

1. The Motor Accidents Claims Tribunal,
Additional District Judge-III, Puducherry.
2. The Section Officer, VR Section,
High Court, Madras.

C.M.A. No.240 of 2017 &
C.M.P.No.1560 of 2017

KGK (CO)
SP(27/02/2018)