

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.258 of 2014
and M.P.No.1 of 2014

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Villupuram Zone-II,
Villupuram.

... Appellant / Respondent

versus

1. Kumari
2. Sangeetha
3. Jayapaul
4. Thamizhselvi

... Respondents / Petitioners

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree dated 01.04.2013 made in M.C.O.P.No.313 of 2008 on the file of the Motor Accident Claims Tribunal, Subordinate Judges Court, Gingee.

For Appellant : Mr.S.V.Vasanth Kumar

For Respondents : Mr.M.R.Sivakumar

JUDGMENT

One Pandurangan, who was aged about 45 years, a rice and paddy merchant, earning a sum of Rs.10,000/- per month, met with an accident on 13.12.2008 and he died on the spot, in respect of which, a case has been registered in Crime No.707 of 2008 at Gingee Police Station, for the offence under Section 304 (A) IPC. The legal representatives of the deceased, namely, wife, two daughters and one son, filed a claim petition in M.C.O.P.No.313 of 2008 before the Motor Accident Claims Tribunal, Subordinate Judges Court, Gingee, claiming compensation of Rs.15,00,000/-.

1.1. As against the claim made by the claimants, the Tribunal awarded a sum of Rs.5,75,000/- as compensation along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

1.2. While quantifying the compensation, the Tribunal has taken the age of the deceased as 45 years, based upon the postmortem certificate. Relying upon the legal heir certificate, the Tribunal came to the conclusion that the claimants are dependents of the deceased and as such, they are entitled to claim compensation. The monthly income of the deceased has been taken at Rs.4,500/- and deducting 1/3rd towards personal expenses, Rs.3,000/- has been taken as monthly dependency and adopting multiplier of '15', the loss of dependency has been calculated at Rs.5,40,000/-; awarding a sum of Rs.20,000/- towards love and affection, Rs.10,000/- towards loss of consortium and Rs.5,000/- towards funeral expenses, the total amount is quantified at Rs.5,75,000/-. The said quantum of compensation is under challenge by the Transportation Corporation in this appeal.

2. The learned counsel for the appellant/Transport Corporation would submit that the claimants are major, having attained the age of 18 years, they cannot be said to be the dependents of the income of the deceased; therefore, they are not entitled to compensation on the ground that they are the dependents of the deceased. This contention may appear to be attractive on the face of it. It is not so deeper consideration. The 4th respondent/daughter of the deceased, at the time of filing the claim petition, was aged 19 years and perhaps, she could have completed only her school studies and for her college studies, she will be a dependent and hence, the fourth respondent is entitled to be maintained by the parents. Normally, in few foreign countries, children at the age of 10 to 15 years, leave the house, i.e. leaving the custody of the parents and they start living separately on their own. But, in India, the children are living with their parents together even after their marriage. Therefore, the contention that the claimants are not entitled to compensation, just because, they have attained the age of 18 years, cannot be accepted and it is rejected. Moreover, dependency alone is not the criteria for awarding compensation and it is a loss caused to the legal representatives is the criteria in awarding the compensation.

3. So far as the quantum of compensation is concerned, this Court is of the view that the award passed by the Tribunal is in no way as excessive and it is inadequate and the monthly income of the deceased could have been taken at an higher level, having regard to the large number of dependents depending upon the earnings of the deceased. Therefore, this Civil Miscellaneous Appeal has no merits and the same is dismissed, confirming the award dated 01.04.2013 passed in M.C.O.P.No.313 of 2008 by the Motor Accident Claims Tribunal, Subordinate Judges Court, Gingee.

4. It is represented by the learned counsel for the appellant/Transport Corporation that 50% of the award amount has already been deposited by the Transport Corporation.

5. The appellant/Transport Corporation is directed to deposit the award amount, less the amount already deposited if any, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, within a period of four weeks, from the date of receipt of a copy of this Judgment. On such deposit being made, the claimants are permitted to withdraw the same. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Subordinate Judges Court, Gingee.
2. The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.S.V.Vasantha Kumar, Advocate, S.R.No.42
+1cc to Mr.M.R.Sivakumar, Advocate, S.R.No.415

C.M.A.No.258 of 2014

VSN(CO)
CS/07/06/17

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