

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 13.10.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.2992 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram. Appellant/Respondent No.2

Versus

1. Parandaman
2. Renu Respondents/Petitioner
3. Kumar Respondent/Respondent No.1

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the decree and judgment, dated 30.09.2016 made in M.C.O.P. No.157 of 2014 on the file of the Motor Accident Claims Tribunal, The Subordinate Court, Arni.

For Petitioners : Mr.K.J.Sivakumar

JUDGMENT

The deceased, Venkatesan, aged 20 years, a Student / Agriculturist met with an accident on 19.06.2014 and died on the spot. The parents of the deceased have filed the claim petition claiming a sum of Rs.15,00,000/- as compensation.

2. The Tribunal on a consideration of materials, both oral and documentary, awarded compensation in a sum of Rs.9,20,000/-, the break up details of which are as under :-

Loss of Income	:	Rs.9,00,000/-
(Rs.5000 x 12 x 15)		
Funeral expenses	:	10,000/-
Loss of mental agony	:	10,000/-

		Rs.9,20,000/-

Challenging the compensation granted as excessive, the transport corporation has filed the present appeal.

3. The main contention raised by the learned counsel for the appellant is that the claimants have not filed valid documents to prove the age and income of the deceased and the Tribunal ought not have fixed a sum of Rs.10,000/- as monthly income and, accordingly, the compensation needs to be reduced.

4. This Court gave its anxious consideration to the contention advanced by the learned counsel for the appellant and perused the materials available on record as also the order passed by the Tribunal.

5. It is relevant from the records that the deceased, who is the son of the claimants, has completed Diploma in Catering Technology and doing computer course. The said factum of his qualification is not disputed by the respondents. It is further evident from the deposition of the witnesses that the deceased was assisting his parents in their agricultural works. In such a background, the Tribunal has fixed the monthly income of the deceased at Rs.10,000/-. On the said monthly income, 50% has been deducted towards the personal expenses of the deceased and the contribution of monthly income by deceased to the family has been quantified at Rs.5,000/=.

6. From the above order passed by the Tribunal, it is evident that the Tribunal has taken into consideration the academic qualification of the deceased coupled with his assisting his parents in agricultural works and has fixed the income. The accident has happened in the year 2014. The Supreme Court, even in Syed Sadiq's case (2014 (2) SCC 735), even the case of unskilled labour has fixed the monthly income at Rs.6,500/=. In the case on hand, the deceased having completed his diploma in catering technology and also doing computer course, definitely falls within the ambit of skilled labour and based on the same, the Tribunal has fixed the monthly income at Rs.10,000/=. It is further relevant to point out that the Tribunal has not considered future prospective increase in income of the deceased. On the basis of the above, the Tribunal has quantified the compensation, which is based on cogent and justifiable reasoning and, therefore, the compensation awarded cannot be said to be excessive or disproportionate. Accordingly, the said contention is liable to be rejected.

7. Insofar as negligence on the part of the driver of the offending vehicle is concerned, the best evidence is that of the driver of the offending vehicle. However, for reasons best known, the appellant has not chosen to examine the driver of the bus, but the conductor of the bus has been examined. The best and most appropriate person having not been examined, the Tribunal has relied on the evidence of the claimant and has accordingly fixed the negligence on the Transport Corporation.

Therefore, this Court finds that the finding of the Tribunal relating to negligence does not warrant any interference.

8. Insofar as the compensation awarded under the heads of loss of love and affection and funeral and mental agony are concerned, the compensation awarded by the Tribunal is very meager. Considering the fact that the accident had happened in the year 2014 and the deceased being a young boy aged 20 years, the claimants have not only lost their future bread winner, but also the love and affection that the deceased would have showered on them in their later years, this Court is of the considered opinion that an amount of Rs.75,000/- each to the father and mother of the deceased towards love and affection would be just and reasonable compensation. Similarly, an additional amount of Rs.10,000/- towards funeral expenses would be just and reasonable compensation.

9. For the reasons aforesaid, this civil miscellaneous appeal is dismissed enhancing the compensation from Rs.9,20,000/- to Rs.10,80,000/= along with interest at 7.5% p.a. from the date of petition till date of deposit. No costs.

10. The Transport Corporation is directed to deposit the amount of compensation, as enhanced by this Court above, less the amount, if any, already deposited with interest @ 7.5% from the date of petition till the date of deposit and costs as awarded by the Tribunal to the credit of the claim petition 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 directly to the bank account of the claimants, as per the ratio of apportionment ordered by the Tribunal, through RTGS, within a period of two weeks thereafter.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

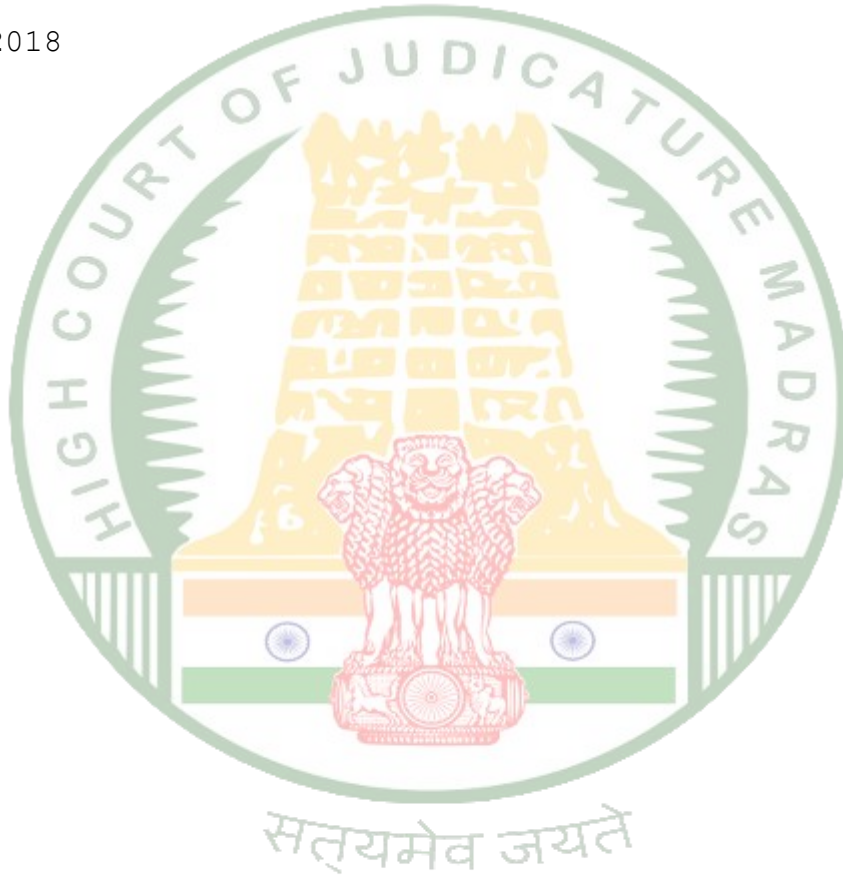
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To

1. The Motor Accident Claims Tribunal,
The Subordinate Court, Arni.
2. The Section Officer,
V.R. Section,
High Court, Madras - 104.

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