

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Civil Miscellaneous Appeal No.2982 of 2014

1.R.Valli

2.R.Sathishkumr

3.R.Sandhiya

4.Pattammal
Appellants/Petitioners

Vs

Tamil Nadu State Transport Corporation,
[Villupuram Division III] Ltd.,
represented by its
Managing Director,
Kancheepuram. .. Respondent/Respondent

Civil Miscellaneous Appeal filed u/s.173 of the Motor Vehicles Act, 1988, against the order and decree of Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai, passed in M.A.C.T.O.P.No.1226 of 2011 on 20.12.2013.

For Appellants : Mr.R.Kalaiarasan
For Respondent : Mr.P.Paramasivados

J U D G M E N T

[Judgment of the Court was made by C.T.SELVAM, J.]

This Civil Miscellaneous Appeal arises against the judgment and decree of Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai, passed in M.A.C.T.O.P.No.1226 of 2011 on 20.12.2013.

2. Appellants are legal heirs of the deceased. Respondent is the Transport Corporation. At about 20.15 hours on 22.02.2011, while the deceased was riding a two wheeler bearing registration No.TN-10-0166, a bus bearing registration No.TN-21-

N-0848 belonging to the respondent transport corporation, dashed against the two wheeler, due to which the deceased sustained head injuries and died instantaneously. Claimants sought compensation in a sum of Rs.37,00,000/-.

3. Before the Tribunal, on the side of appellants/claimants, 3 witnesses were examined and 13 exhibits were marked. On the side of respondent transport corporation, the driver of the bus has been examined and no exhibits were marked.

4. On appreciation of materials before it, Tribunal, under judgment dated 20.12.2013, found that the death has occurred owing to the rash and

negligent driving of the bus and awarded compensation as follows:

(a) Loss of dependency	:	Rs.13,07,628/-
(b) Loss of consortium	:	Rs. 25,000/-
(c) Loss of love and affection	:	Rs. 25,000/-
(d) Loss of Estate	:	Rs. 10,000/-
(e) Funeral expenses	:	Rs. 10,000/-
(f) Transport expenses	:	Rs. 5,000/-

Rs.13,82,628/-

Seeking enhancement of compensation, appellants/claimants have filed this appeal.

5. Heard learned counsel for appellants and learned counsel for respondent transport corporation.

6. Learned counsel for appellants submitted that the Tribunal erroneously has applied the split multiplier method in arriving at the quantum of compensation. Learned counsel relied on judgment of this Court in 2017 (1) TN MAC 652 (DB) to submit that in such case this Court had refused to adopt the split multiplier method of computation. Learned counsel submitted that the compensation awarded under the other heads are low. Learned counsel further brought to notice that the appeal preferred by respondent against the finding of Tribunal has been dismissed.

7. Learned counsel for respondent transport corporation submitted that the order of the Tribunal explicitly informs its reasons for adopting the split multiplier method and such finding does not call for any interference. Learned counsel also affirmed that as submitted by learned counsel for appellants the appeal preferred by respondent in C.M.A.No.728 of 2017 has been dismissed under orders dated 28.02.2017.

8. On consideration of rival submissions, this Court finds that as observed by Division Bench of this Court in 2017 (1) TNMAC 652 (DB), the Supreme Court in Puttamma and others v. K.L.Narayana Reddy and another [2014 (1) TNMAC 481 (SC)] informed: 'We, therefore, hold that in absence of any specific reason and evidence on record the Tribunal or the Court should not apply Split Multiplier in routine course and should apply Multiplier as per decision of this Court in the case of Sarla Verma v. Delhi Transport Corporation, 2009 (2) TNMAC 1 (SC), as affirmed in the case of Reshma Kumari v. Madan Mohan, 2013 (1) TNMAC 481 (SC)'. In the decision relied upon, the deceased was a Reader in the Commerce Department of a private College, aged 55 at the time of his death and it was found that by the date of his retirement he would have earned a monthly income of Rs.95,996/-, his prospects of earning post retirement were larger and therefore, it was found inappropriate to apply the split multiplier method. In the instant case, the deceased was a Relay Tester with a Private Electrical Company and admittedly had only 3 years of service left. The facts attending the case relied on by learned counsel for appellants do not apply to the case on hand and quite rightly, Tribunal has adopted the split multiplier method reasoning that post his retirement age of 58 years, there is likelihood of deceased earning upto 50% of last drawn salary. Where Tribunal has informed reasons for its decision, which are not found totally unacceptable, it is not for this Court to interfere. However, we find merit in the submission of learned counsel for appellants that the sums awarded under other heads are inadequate, particularly, given the finding of this Court in C.M.A.No.728 of 2017 that sums awarded under the heads loss of consortium, love and affection and funeral expenses are inadequate. Accordingly, this Court while holding that the amount awarded under the head 'loss of estate' is unacceptable, awards as follows:

(a) Loss of dependency	:	Rs.13,07,628/-
(b) Loss of consortium	:	Rs. 1,00,000/-
(c) Loss of love and affection	:	Rs. 75,000/-
[25,000 x 3]		
(d) Funeral expenses	:	Rs. 25,000/-
(e) Transport expenses	:	Rs. 5,000/-

		Rs.15,12,628/-

The said sum of Rs.15,12,628/- shall be payable together with interest at 7.5% from the date of petition till the date of realization.

The Civil Miscellaneous Appeal is partly allowed. Respondent Transport Corporation is directed to deposit the enhanced compensation amount less that already deposited within a period of six weeks from the date of receipt of this judgment. Appellants/claimants are at liberty to withdraw the amount on due application as apportioned by Tribunal. No costs.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

gm

To

1. The Judge
Motor Accident Claims Tribunal,
Chief Small Causes Court,
Chennai.

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

+2 Ccs to Mr.R. Kalaiarasan, Advocate sr 78663.

Civil Miscellaneous Appeal No.2982 of 2014

SVI(CO)
SP(08/02/2018)

सत्यमेव जयते

WEB COPY