

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.414 of 2017  
and C.M.P.No.2866 of 2017

The Managing Director,  
State Express Transport  
Corporation,  
Chennai.

... Appellant / Respondent

versus

1. Vasantha
2. Kannan
3. Minor Selvi

... Respondents / Petitioners

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 21.07.2003 in M.C.O.P.No.51 of 2003 on the file of the Additional District Court (Fast Track No.II), Cuddalore.

For Appellant : Mr.S.Jagadeeswaran

JUDGMENT

In respect of death of one Kumar, aged 16 years, working as a coolie, the parents of the deceased filed a claim petition in M.C.O.P.No.51 of 2003 before the Additional District Court (Fast Track No.II), Cuddalore, claiming compensation of Rs.3,00,000/-.

2. As against the claim made, the Tribunal has awarded a sum of Rs.1,70,000/- as compensation, payable along with interest at the rate of 9% p.a. from the date of petition till the date of deposit.

|                                           |   |               |
|-------------------------------------------|---|---------------|
| Loss of dependency                        | - | Rs.1,50,000/- |
| Loss of love and affection to the parents | - | Rs. 10,000/-  |
| Loss of love and affection to the sister  | - | Rs. 5,000/-   |
| Funeral expenses                          | - | Rs. 5,000/-   |
| Total                                     | - | Rs.1,70,000/- |

3. Challenging the quantum of compensation, the Transport Corporation has filed this appeal.

4. It is contended by the learned counsel for the appellant Transport Corporation that the award is exorbitant, having regard to the fact that the deceased was a minor aged about 13 years as per the Postmortem Certificate and he was not having earning capacity at the age of 13 years. Therefore, the award needs to be reduced.

5. Based upon the Postmortem Certificate, the age of the deceased has been taken as 13; as he was studying 7<sup>th</sup> standard at the time of accident, the claim that the deceased was earning, was not believed by the Tribunal. Therefore, the income of the deceased has been taken notionally at Rs.15,000/- p.a. Deducting 1/3<sup>rd</sup> towards personal expenses and adopting proper multiplier of '15', the compensation for loss of dependency has been arrived at Rs.1,50,000/-; awarding a sum of Rs.5,000/- each to the parents for loss of love and affection and Rs.5,000/- to the sister and Rs.5,000/- towards cremation expenses, the total compensation has been quantified at Rs.1,70,000/-. Therefore, the compensation awarded by the Tribunal is very reasonable on all the grounds.

6. Hence, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 21.07.2003 passed in M.C.O.P.No.51 of 2003 by the Additional District Court (Fast Track No.II), Cuddalore.

7. The Transport Corporation is directed to deposit the entire amount of compensation along with interest at the rate of 9% p.a. from the date of petition till the date of deposit, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the major claimants are permitted to withdraw their share of the amount as per the apportionment made by the Tribunal. The minor claimant/3<sup>rd</sup> respondent would have attained majority as on date. Hence, the Tribunal shall permit the third respondent to withdraw her share of the amount, on producing necessary documents. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal  
(Additional District Court),  
(Fast Track Court-II),  
Cuddalore.

C.M.A.No.414 of 2017

NM(CO)  
RS(03/07/2017)



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