

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.417 of 2017
and C.M.P.No.2869 of 2017

Metropolitan Transport Corporation
(Division II) Ltd.

Rep. by its Managing Director,
Pallavan House,
Pallavan Salai, Chennai - 2. ... Appellant / Respondent
versus

1. Jayanthi
2. Saradha
3. Minor Indumathi
4. Minor Parthiban ... Respondents / Petitioners
(Minors are represented by
their mother first respondent)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 28.02.2002, made in M.C.O.P.No.2096 of 1998, on the file of the Motor Accident Claims Tribunal cum V Small Causes Court, Chennai.

For Appellant : M/s.S.V.Vasanthakumar

JUDGMENT

One Kumar, aged about 32 years, a Hair Dresser by profession, earning a sum of Rs.150/- per day, met with a fatal accident on 27.08.1997. Hence, the legal representatives of the deceased, namely, wife, mother and two minor children of the deceased, filed a claim petition in M.C.O.P.No.2096 of 1998, on before the Motor Accident Claims Tribunal cum V Small Causes Court, Chennai, claiming compensation of Rs.3,93,500/-.

2. As against the claim made, the Tribunal has awarded a sum of Rs.2,42,000/- as compensation payable with interest at the rate of 9% p.a. from the date of petition till the date of deposit.

3. Claiming that the award as exorbitant, the Transport Corporation has filed this appeal.

4. The contention of the learned counsel appearing for the appellant is that the amount of compensation awarded is exorbitant and the amount awarded has to be reduced.

5. Now, the issue to be decided is as to whether the amount awarded by the Tribunal is just or not.

1. Giving a finding that there was no documentary evidence to show that the income of the deceased, the notional income has been taken at Rs.2,000/-; deducting 1/3rd towards personal expenses and adopting the multiplier of 15, the loss of dependency has been assessed at Rs.2,40,000/-; awarding a sum of Rs.2000/- towards cremation expenses, the total compensation has been quantified at Rs.2,42,000/-.

1. when there are minor children whose growth and development was much dependent on the guidance and support of the father the tribunal should have awarded compensation on a liberal scale. The monthly income taken and the multiplier adopted are reasonable but future prospective increase in income has not been taken into account. Therefore the award passed can in no circumstance be termed as excessive. Under normal circumstance this court have been inclined to enhance the compensation but as the accident is of the year 1999 and the claimants also did not file the appeal this court is constrained to dismiss the Civil Miscellaneous Appeal filed by the Transport Corporation.

8. The Transport Corporation shall 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. The major claimants are permitted to withdraw their share of the amount as per the apportionment made by the Tribunal. The minor claimants would have attained majority as on date and hence, the Tribunal shall permit them to withdraw the amount on producing necessary documents. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1. The Motor Accident Claims Tribunal
cum V Small Causes Court,
Chennai.

C.M.A.No.417 of 2017

rk(co)
ss(18/7/2017)