

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.619 of 2017

and C.M.P.No.3603 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
37, Mettupalayam Road,
Coimbatore.

... Appellant / 2nd Respondent

versus

1. Palaniammal
W/o. Late Mudaliappan
2. Ponnusamy
S/o. Late Mudaliappan
3. Pushpa
D/o. Late Mudaliappan
(W/o. Palanisamy)
4. Govindaraj
S/o. Late Mudaliappan
5. Parvatham
D/o. Late Mudaliappan
(W/o. Mani)
6. S.Karnan
(R6 Driver remained ex parte
before the Tribunal)

... Respondents 1 to 5 / Claimants

... 6th respondent / 1st respondent

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 03.06.2011 made in M.C.O.P.No.917 of 2009 on the file of the Subordinate Judge, Tarapuram.

For Appellant : Mrs.T.Sundari
For R1 to R5 : Mr.N.Manokaran

JUDGMENT

The deceased, Mudaliappan, aged about 68 years, earning a sum of Rs.10,000/- p.m. died in the accident that took place on 01.05.2007. His wife, sons and daughters filed a claim petition before the Motor Accident Claims Tribunal (Sub Court), Tarapuram, claiming compensation in a sum of Rs.10,00,000/-.

2. The Tribunal, on appreciation of oral and documentary evidence, awarded compensation in a sum of Rs.2,46,000/- along with interest at 7.5% p.a. from the date of petition till the date of deposit, the break-up details of which are as hereunder :-

Loss of income	-	Rs.1,80,000/-
Loss of consortium to 1 st claimant	-	Rs. 10,000/-
Loss of love and affection	-	Rs. 50,000/-
Funeral expenses	-	Rs. 5,000/-
Transport Expenses	-	Rs. 1,000/-

Total	-	Rs.2,46,000/-

Challenging the compensation awarded as excessive, the appellant/Transport Corporation has filed this Civil Miscellaneous Appeal.

3. The learned counsel appearing for the Transport Corporation submitted that the compensation awarded by the Tribunal is excessive and disproportionate as the Tribunal has awarded compensation to the married daughters of the deceased and, hence, the award amount has to be reduced.

4. The learned counsel appearing for the claimants submitted that the compensation awarded by the Tribunal is justifiable and hence, award has to be confirmed.

5. Heard the learned counsel appearing on either side and perused the award passed by the Tribunal.

6. Insofar as the contention raised with regard to the compensation awarded to the married daughters is concerned, though it is the submission of the learned counsel for the appellant that the daughters having been given in marriage, there is no loss of income to them and, therefore, they should not be taken into consideration for the purpose of quantifying the compensation and, therefore, the deduction towards personal expenses should be more. In Indian culture, even after marriage, the father support the married daughters. In old age, people tend to save money and contribution would go to the estate also.

6. Though the daughters have been given in marriage, the Tribunal has given only a sum of Rs.10,000/- to each daughter under the head love and affection. A daughter is always a child to his/her parents, whatever be their age. Even at the age of 68 years, the deceased would definitely be showering his love and affection on his daughters, which had been severed due to his untimely death on account of the accident. Though the daughters will not suffer loss of income on a day to day basis on account of their marriage, however, they would suffer loss of saving by the father. The daughters having lost the love and affection which they would be getting from their father, are definitely entitled to compensation for the said loss and, therefore, the contention of the appellant that the daughters having been married are not entitled to compensation cannot be sustained and, accordingly, the said contention is rejected.

7. Insofar as compensation awarded under the various heads are concerned, the Tribunal, considering the age of the deceased as 68 years, fixing the monthly income of the deceased at Rs.4,000/- and deducting 1/4th towards his personal expenses and adopting multiplier of '5', quantified the loss of income at Rs.1,80,000/-; a sum of Rs.10,000/- each, in all totalling to Rs.50,000/- has been awarded to the claimants, under the head loss of love and affection; a sum of Rs.10,000/- has been awarded under the head loss of consortium to the 1st claimant and a sum of Rs.3,000/- and Rs.1,000/- respectively has been awarded under the heads funeral expenses and transport expenses, in all totalling to a sum of Rs.2,46,000/-. The quantification of the

above amounts, in the considered opinion of this Court, is reasonable and justified and it requires no interference. Accordingly, the above award is confirmed.

8. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 03.06.2011, passed by the Motor Accident Claims Tribunal (Sub Court), Tarapuram, in M.C.O.P.No.917 of 2009.

9. The appellant Transport Corporation is directed to deposit the award amount as ordered by the Tribunal, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, less the amount, if any, already deposited, 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 same to the bank account of the claimants through RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ogy /GLN
To

The Sub Court,
Tarapuram.

Copy to: The Section Officer,
VR Section,
High Court Madras.

SVI(CO)
sm:5.4.2018

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