

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2017

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

C.M.A.No.541 of 2014
and M.P.No.1 of 2014

The Managing Director
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Trichy Branch, Periyamilaguparai,
Trichy - 620 001. ... Appellant/Respondent
Vs.

1.Sathya
2.Minor Subhiksha
3.Chinnaiyan
4.Mankayi ... Respondents/Petitioners

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 08.02.2013 made in MCOP. No.1564 of 2010 on the file of the Motor Accidents Claims Tribunal, Additional District Judge-III, Salem.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

One Chakravarthy aged 36 years died while travelling as a passenger in an auto rickshaw on 07.6.2010, when a bus bearing No.TN45 N 2758 belonging to the appellant dashed against it. Seeking a compensation of Rs.15,00,000/-, his wife, daughter and parents moved the Tribunal. Considering the facts before it, the Tribunal passed an award for Rs.8,28,000/- payable with interest at 7.5%. The appellant challenges the quantum herein awarded.

2. Chakravarthy was stated to be 36 years at that relevant time and was claimed to be earning Rs.15,000/- a month. He was engaged in coconut business. However, Tribunal has fixed his notional monthly income at Rs.6,000/- and after deducting 1/3rd towards personal expenses, Tribunal reckoned the net monthly financial support offered by the deceased to his family at Rs.4,000/- and applied a multiplier of 16.

3. The notice in this case has not been served and almost three years since the filing of the appeal and therefore, this Courts, decides to test the case of the appellant on its own merits. The learned counsel for the appellant would now intervene to submit that as per his instructions the claimants/respondents have not preferred any appeal. In this appeal, therefore, only the merit of the appellant's contention is considered.

4. The only point argued by the learned counsel for the appellant was that the notional monthly income fixed by the Tribunal at Rs.6,000/- is on the higher side, whereas the multiplier to be adopted is 15, but the Tribunal has erred in adopting 16 as a multiplier.

5. If the award is closely read, two factors emerge: first, instead of deducting 1/4 towards personal expenses of the victim based on Sarla Varma & Others Vs. Delhi Transport Corporation & another [2009(2) TNMAC 1]: [2009 ACJ 1298], the Tribunal has deducted 1/3. If this in the mind of this Court, would adequately balance the internal calculus in the final sum arrived as compensation towards loss of support to the family. If only the appellant has to offer any resistance, it should only in defence to any prayer for enhancing the amount, but so far as this appeal is concerned, nothing survives.

6. In the result, the appeal is dismissed. The appellant/transport corporation is directed to deposit the award amount of compensation with accrued interest, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this order, whereupon the claimants are entitled to withdraw their shares as determined by the Tribunal, forthwith. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To:

1. The Additional Distrit Judge-III
Motor Accidents Claims Tribunal
Salem.
2. The Section Officer
VR Section
High Court, Madras.

+1 cc to M/s.D.Venkatachalam Advocate sr 55062

C.M.A.No.541 of 2014

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