

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2017

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.886 of 2017
[(SR) No.37397 of 2016]
& CMP No.4350 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
(Vellore Region),
Villupuram.

... Petitioner/Appellant/
3rd Respondent

..Vs..

1. Sudha,
2. Minor. Yasmitha,
Rep.by her mother and natural guardian
Sudha.
3. Samiraja,
4. Yasotha,
5. Selvarasu
6. ICICI Lombard/General Insurance Co.Ltd.,
Zenie House, Keshavrao Khady Marg,
Opp. Race Course,
Mahalaxmi,
Mumbai.

... Respondents/Petitioners/
Respondents 1&2

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgement and Decree, dated 20.11.2013, made in M.C.O.P.No.701 of 2007 on the file of Motor Accident Claims Tribunal (Principal District Judge) Perambalur.

For Appellant

:Mr. S. Sairaman

For Respondents

:Mr. R. Venkatesan,

for R1, R3 and R4

R-5 NDW;

M/s. R. Sreevidhya, for R-6

J U D G M E N T

As the main contesting respondents have been served, the Appeal itself has been taken up for final disposal.

2. This Appeal has been filed by the Transport Corporation, challenging the award passed in favour of the claimants.

2.1. The deceased Manikandan @ Balakrishnan, aged 29 years, a proprietor of the photo studio, earning a sum of Rs. 12,000/- per month, died in an accident. The legal representatives have filed a claim petition, claiming a sum of Rs.10,00,000/-. The first claimant is the wife, the second claimant is the minor daughter and the 3rd and 4th claimants are the parents of the deceased.

3. The following parameters have been considered by the Tribunal, while quantifying the compensation.

3.1. Based upon Ex.P-2, Postmortem certificate, the age of the deceased has been taken as 28. The monthly income has been taken as Rs. 6,000/- per month. Reducing 1/3rd towards the personal expenses of the deceased and adopting the multiplier of '17', the dependency has been quantified at Rs.8,16,000/-. Awarding a sum of Rs.40,000/- towards the loss of consortium to the first claimant, awarding Rs.20,000/- towards the loss of love and affection, awarding Rs.5,000/- towards the transportation expenses, awarding Rs.10,000/- towards the loss of estate and Rs.5,000/- towards the funeral expenses, the total amount of compensation has been quantified at Rs.8,96,000/-.

4. The Tribunal has given an important observation that, when the child is aged 2 years, the entire future is at dark, and when the parents are in the advanced stage of their life, they have lost support of the son and the wife has lost conjugal happiness at her younger age. Despite all these observations, the dependency has been assessed only at Rs.4,000/- per month. The future prospective increase in income has not taken into account. The loss of guidance and support to the minor child has also not taken into account. In such circumstances, the award passed by the Tribunal cannot be said to be excessive.

5. In view of the above reasonings, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently the connected CMP is also dismissed.

Sd/-

Assistant Registrar(CS II)

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Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal
(Principal District Judge)
Perambalur.

C.M.A.No.886 of 2017
[(SR) No.37397 of 2016]
& CMP No.4350 of 2017

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