

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2017

C O R A M

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.No.2024 of 2007

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Kudanthai Division,
Kumbakonam. Appellant/Respondent

Vs.

1. Anjugam
2. Sivakumar
3. Vanitha Respondents/Appellant

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgement and award made in M.C.O.P.No.665/2003 dated 28.01.2005 on the file of the Motor Accidents Claims Tribunal (Additional District Judge), Chidambaram.

For Appellant : Mr.D.Venkatachalam

For Respondents: Mr.M/S.Royon Law Associates

JUDGMENT

This Appeal has been preferred against the decree and judgement passed in MCOP No.665 of 2003 dated 28.01.2005 on the file of Motor Accidents Claims Tribunal (Additional District Judge), Chidambaram.

2. The brief facts of the claim application is that the deceased while travelling in Government Bus bearing registration No. TN49-N-1177 and the deceased while trying to get down from the bus, the driver suddenly moved the bus, thereby the deceased fall down from the bus and the bus ran over him and caused severe injury is, due to the injuries sustained by him, he died in the hospital. The Tribunal after verifying the evidence and also documents placed before it, considered the earning capacity and occupation of the deceased and the income earned by him, the wife and children of the deceased a sum of Rs.8,00,000/-.

3. Before the Tribunal, the claimants examined herself as PW1, PW2 and PW3 and the marked Exs.P1 to P12 on their side of the Transport Corporation driver of the bus was examined as DW1 and no documents was marked.

4. The Tribunal considering the oral and documentary evidence awarded a sum of Rs.4,26,000/- under various heads. The break up details of the award is as follows:-

S.No	HEADS	AWARDED AMOUNT Rs.
1	Loss of income	3,96,000.00
2	Funeral Expenses	5,000.00
3	Transportation expenses	5,000.00
4	Loss of consortium	20,000.00
	Total	4,26,000.00

5. The above said compensation is challenged by the appellant by filing the present appeal on the ground that the compensation awarded is exorbitant. In the grounds of appeal, the appellant transport corporation has stated that the income of the deceased fixed by the Tribunal is without any proof and proper multiplier method is not applied and the award passed by the Tribunal is liable to be set aside. On the whole, it is contended that the compensation awarded by the Tribunal is excessive.

6. On a perusal of records, it is evident that the deceased was aged 52 years and from the evidence of PW1, it is clear that the deceased is a sculpture by profession and he was earning Rs.300/- to Rs.500/- per day and he used to go for abroad for the same employment and by that he was earning a sum of Rs.10,000/- p.m. For his employment in abroad, on the side of the petitioner, Ex.P6- the passport, Ex.P7 - Emigration Certificate, Ex.P8 - flight ticket, Ex.P9 - the letter, he received from abroad and Ex.P10 - contract document have been produced to show that he was doing only the completion of work on the statue. That is the observation made by the claims Tribunal. Hence, the Tribunal determined the income of the deceased at Rs.5,000/-. This Court is of the opinion that the said findings by the Tribunal and fixing of monthly income at Rs.5,000/- is not on the higher side, considering the nature of the work which depends purely on the efficiency of the individual. While calculating the loss of income, the age of the deceased had been determined at 52, as per Ex.P3, and the multiplier applied is quite proper and based on the above said determination, his loss of income is calculated at Rs.3,96,000/- which is quite an appropriate one. For the funeral expenses, a

sum of Rs.5,000/- and for consortium a sum of Rs.20,000/- are awarded which also cannot be said to be on a higher side.

7. Hence, the award of the Tribunal is just and proper. The award passed by the Tribunal does not require any interference by this court and the appeal is dismissed thereby confirming the award passed by the Tribunal. Since the entire amount has been deposited by the appellant, the Tribunal is directed to transfer the award amount directly to the bank account of the major claimants through RTGS, as per the ratio of apportionment made by the Tribunal. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
(Additional District Judge),
Chidambaram.

+1 cc to M/s.Royan Law Associates sr 90259

+1 cc to M/s.D.Venkatachalam Advocate sr 90297

C.M.A.No.2024 of 2007

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