

In the High Court of Judicature at Madras

Dated : 18.08.2017

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The Honourable Mr.Justice R.SUBBIAH
and
The Hon'ble Mr.Justice A.D.JAGADISH CHANDIRA

C.M.A.No.1784 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Villupuram Division-I,
No.3/137, Salamedu,
Valudhareddy Post,
Villupuram - 605 602 ..Appellant/Respondent

..vs..

1.Mangayarkarasi
2.Anbarasan
3.Akilandeswari
4.Sowbagiyalakshmi ..Respondents/Petitioners

Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in MCOP No.340 of 2010 dated 31.7.2012 on the file of Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore.

For Appellant : Mr.S. Sairaman

For respondents : Mr.R. Muralidharan

JUDGMENT

(Judgment of the Court was delivered by R. SUBBIAH,J.,)

Challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore in MCOP No. 340 of 2010 dated 31.7.2012, the Tamil Nadu State Transport Corporation Limited has filed the present appeal. The respondents 1 to 4 are the claimants before the Tribunal, who are the wife, son and daughters of the deceased K. Devadoss.

2. The case of the respondents / claimants before the Tribunal is that on 18.12.2009 at about 14.30 hours, while the deceased Devadoss was riding Hero Honda Splendor motor cycle, bearing Registration No.TN-20.K-0345 from North to South at a moderate speed on the left side of Chennai to

Kumbakonam national Highways Kandarkottai Main Road, near Annamalaiyar Nagar, a bus, bearing Registration No.TN.32.N.2353, belonging to the appellant-Transport Corporation, came in the same direction behind the two wheeler at hectic speed, in a rash and negligent manner and hit the two wheeler and thus, caused the accident, in which, the deceased sustained fatal injuries and died on the spot. The respondents/claimants made a claim of Rs.30,00,000/-. As against the appellant-Transport Corporation, before the Tribunal.

3. The claim made by the claimants was resisted by the appellant Transport Corporation by filing a detailed counter. In the counter, the claimants stated that the accident was not due to rash and negligent driving of the bus, but, on the other hand, the accident was due to the negligent act committed by the deceased.

4. In order to prove the claim, on the side of the respondents/claimants, the first respondent/wife examined herself as P.W.1, besides P.W.2 eyewitness and marked Exs.P.1 to P.6 documents. On the side of the appellant-Transport Corporation, the driver of the bus was examined as R.W.1 and no document was marked.

5. The Tribunal, after considering the evidence available before it, came to the conclusion that the accident was due to rash and negligent act of the driver of the bus, belonging to appellant-Transport Corporation and fixed the entire liability on the appellant-Transport Corporation and awarded a sum of Rs.19,73,800/-, as compensation to the respondents/claimants, together with interest at 6% per annum from the date of petition. Aggrieved over the same, the appellant Transport Corporation has filed the present appeal.

6. Since the present appeal has been filed only questioning the quantum of compensation awarded by the Tribunal, it is not necessary for this Court to traverse into the other aspects of the Award.

7. So far as the quantum of compensation amount is concerned, it is submitted by the learned counsel for the appellant-Transport corporation, that the Tribunal had fixed a sum of Rs.16,400/- as monthly income of the deceased. The Tribunal, instead of deducting 1/3 towards personal expenses, deducted $\frac{1}{4}$ th amount, which resulted in awarding an exorbitant sum of Rs.19,73,800/- as compensation to the respondents/claimants. Thus, the learned counsel sought for proper reduction in the award amount.

8. Per contra, the learned counsel for the respondents/claimants made his submission supporting the award passed by the Tribunal.

9. Heard both sides and perused the materials available on record.

10. On a perusal of the award, it is seen that the respondents/claimants, in order to prove the income earned by the deceased, examined the wife of the deceased as P.W.1. She, in her evidence, deposed that the deceased was working as a Selection Grade Driver in Tamil Nadu State Transport Corporation, Villupuram and earning a sum of Rs.16,409/- per month. The pay slip of the deceased was marked as Ex.P.4. Based on the same, the Tribunal has fixed a sum of Rs.16,400/-, as the monthly income of the deceased. The Tribunal, after deducting $\frac{1}{4}$ towards personal expenses, based on the number of claimants, fixed a sum of Rs.12,300/- as loss of monthly income. Thereafter, considering the age of the deceased, who is 48 years at the time of accident, by applying the multiplier "13", the Tribunal has arrived a sum of Rs.19,18,800/- towards "total loss of income". We are of the opinion that since the claimants are four in number, the Tribunal has deducted $\frac{1}{4}$ th amount towards personal expenses. Therefore, we do not accept the submission of the learned counsel for the appellant that the Tribunal ought to have deducted $\frac{1}{3}$ rd amount towards personal expenses..

11. Apart from that, the Tribunal has awarded a sum of Rs.40,000/- towards "loss of love and affection", besides awarding a sum of Rs.2,500/- towards "funeral expenses". The Tribunal has further awarded a sum of Rs.2,500/- for ambulance charges under the head "transport expenses" and a sum of Rs.10,000/- towards "loss of consortium to the first respondent / wife" for the death of her deceased husband. The break up details of the total compensation awarded by the Tribunal are as follows:

Loss of income	:	Rs.19,18,800/-
Loss of love and affection	:	Rs. 40,000
Funeral expenses	:	Rs. 2,500
Transport Expenses	:	Rs. 2,500
Loss of consortium to 1 st respondent	:	Rs. 10,000

Total Rs.19,73,800/-

12. We do not find any error or infirmity in the award so passed by the Tribunal, as the calculation made by the Tribunal is well within the principles laid down by the Apex Court. Therefore, we do not find any compelling circumstances, warranting this Court to interfere with the award passed by the Tribunal.

13. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant-Transport Corporation is directed to deposit the entire award amount with proportionate interest and costs, if not already deposited, to the credit of

MCOP No340 of 2010 on the file of the Motor Accidents Claims Tribunal (Principal District Judge), Cuddalore, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents / claimants are permitted to withdraw their respective shares on filing application.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

TO

The Principal District Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

Copy to
The Section Officer,
High Court, Madras.

+1cc to Mr.S.Sairaman, Advocate, S.R.No.59867

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GN (09/10/2017)

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