

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.2553 of 2013

and

M.P.No.1 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation,
No.12, Ramakrishna Road,
Salem-7. ... Appellant/Respondent

Vs.

1. Gomathi
2.Minor Mathimithra
Minor represented by her next
friend and mother Gomathi

3. Almelu ... Respondents/Petitioners

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 29.02.2012 made in M.C.O.P.No.16 of 2010 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Namakkal.

For Appellant : Mr.D.Venkatachalam
For Respondents : No Appearance

JUDGMENT

This appeal is preferred by the respondent before the Motor Accident Claims Tribunal in which, it is challenging the quantum of compensation award.

2. On 27.06.2009, at about 8.45 p.m., one Vijayaraghavan while going in his motor cycle bearing Reg.No.TN 28-P-9893 along Namakkal - Tiruchendur road, a bus belonging to State Transport Corporation, the appellant herein, dashed against the motor cycle and the killed the rider of the motorcycle. The deceased was aged about 32 years and was a lorry driver and was alleged to be earning Rs.7,000/- per month besides his batta Rs.100/-. His legal representatives preferred the claim for Rs.20,00,000/- before the Tribunal, as against which the Tribunal has passed an award for Rs.7,30,000/- payable with interest at 7.5% p.a.

3. The notice of this appeal has not been served on the respondents yet. However, the learned counsel for the appellant submitted on instruction that till date no appeal has been preferred by the claimants. Given the need of dispose of the matter arising out of the accident, this Court has decided to hear the appellant to test the merit of this appeal de hors such right of the claimants that may have sprung from the award.

4. As already indicated, the appeal is directed against the quantum of compensation awarded by the Tribunal. The claimants have produced necessary documents such as Ext.P-5 driving licence, Ext.P-7 certificate given by the employer of the deceased to indicate that he was working as a lorry driver, and that the deceased was aged 31 years at the relevant time, that he possessed a valid licence for driving heavy vehicle and that he was earning Rs.12,000/- to Rs.17,000/- per month. Comparing the above evidence with that of PW1, the Tribunal has fixed the monthly income at Rs.5,000/-, and adopting 17 as multiplier after deducting 1/3 of his income towards personal expenses of the victim, the Tribunal has quantified the loss of support the family faced on the untimely demise of the victim of the accident at Rs.6,80,000/-.

5. The learned counsel for the appellant submitted that as per Sarla Verma dictum, the proper multiplier is only 16 and the Tribunal was in error in adopting 17 as the multiplier. If this reckoned, this Court finds that there is only difference of Rs.40,000/-. However, on the head of loss of consortium, the Tribunal had awarded an insignificant Rs.10,000/- as compensation. I therefore, propose to allot this difference of Rs.40,000/- to the award of the victim as additional compensation towards loss of consortium.

6. In the result, I find no merit in the appeal filed by the appellant and this appeal is dismissed. The Appellant / Transport Corporation is directed to deposit the award of the Tribunal, less the amount if any, already deposited in Court within six weeks from the date of receipt of a copy of this order, whereupon the claimants/respondents would be entitled to the share, forthwith as apportioned by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To:

The Motor Accident Claims Tribunal
Principal District Judge, Namakkal.

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

+ 1 cc to M/s. D. Venkatachalam, Advocate Sr.55064

C.M.A.No.2553 of 2013
and
M.P.No.1 of 2013

MP (CO)
EU (20/11/2017)



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