

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.1090 of 2017

and C.M.P.No.5380 of 2017

Tamil Nadu State Transport Corporation  
Kumbakonam, Thanjavur District,  
Rep. by its Managing Director. .... Appellant / Respondent

versus

1. Shanmugaprabhu  
2. Kokilambal  
3. Minor Santhoshkumar  
4. Minor Naveenkumar  
(Minors are represented by their  
father Shanmugaprabhu) .... Respondents / Petitioners

Prayer : This appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and decree dated 29.04.2016 made in M.C.O.P.No.327 of 2015 on the file of the Motor Accident Claims Tribunal, District Judge, Nagapattinam.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

One Ramesh @ Rameshkumar, aged about 19 years, a mechanic, earning a sum of Rs.15,000/-, met with an accident on 20.07.2014 and sustained injuries and succumbed to those injuries. In respect of the same, the legal representatives, namely, father, mother and minor brothers, filed a claim petition in M.C.O.P.No.327 of 2015 before Motor Accident Claims Tribunal, District Judge, Nagapattinam, claiming compensation of Rs.20,00,000/-

1.1. As against the claim made, the Tribunal has awarded a sum of Rs.8,55,000/- as compensation, under the following break-up details.

Based on Ex.P3-death certificate and Ex.P4-Postmortem Certificate, the age of the deceased has been fixed s 18 years; monthly earnings has been taken at Rs.6,000/- p.m.; considering the age of the mother of the deceased as 40 years and not the age of the deceased, the Tribunal has adopted the multiplier of 16; by deducting 1/3<sup>rd</sup> towards personal expenses and adopting the multiplier of 16, the loss of dependency has been calculated at Rs.7,68,000/-; awarding a sum of Rs.80,000/- towards loss of love and affection (Rs.20,000/- each to the claimants) and Rs.7,000/- towards funeral expenses, the total amount has been quantified at Rs.8,55,000/-.

1.2. Challenging the quantum of compensation as excessive, the Transport Corporation has filed this appeal.

2. It is the grievance of the appellant that deduction ought to have been made at 50%, when the deceased is a bachelor, therefore, the deduction of 1/3<sup>rd</sup> made is illegal and the award requires modification.

3. The contention of the learned counsel for the appellant is that the deduction of 50% in case of bachelor is not made at all times and it will be made only depending upon the number of dependents, subject to which, the bachelor would be able to spend for his personal expenses. There are two minor dependents upon the earnings of the deceased, namely, minor Santhoshkumar (aged 15 years) and Naveenkumar (aged 9 years). When there are four members in the family depending upon the income of the bachelor, then, the bachelor cannot spend 50% on himself. Even otherwise, the Tribunal is expected to take into account the age of the deceased and not the age of the dependents. Moreover, future prospective increase in income also is not taken into account and if it is taken into account, the compensation would be more. Therefore, this appeal has no merits.

4. Accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 29.04.2016 made in M.C.O.P.No.327 of 2015 on the file of the Motor Accident Claims Tribunal, District Judge, Nagapattinam.

5. The Transport Corporation is directed to deposit the entire amount of compensation, less the amount already deposited, if any, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the major claimants are

permitted to withdraw their share of the amount, as per the apportionment made by the Tribunal. The minors' share shall be deposited in a Fixed Deposit Scheme in any one of the Nationalized Bank, for a period of three years, till they attain majority. The mother of the minors is permitted to withdraw the interest accrued thereon, once in three months. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1. The Motor Accident Claims Tribunal,  
Sub Court,  
Tirupur.

2.The Section Officer,  
VR Section,  
High Court, madras.

ad(co)  
ss(28/6/2017)

C.M.A.No.1090 of 2017

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