

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5/4/2017

C O R A M

THE HONOURABLE MR.JUSTICE S.MANI KUMAR

AND

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1217 of 2017

The Managing Director,
State Express Transport Corporation
(Chennai) Ltd., Pallavan Salai,
Chennai -2.

...

Appellant

Vs

1. Mrs.R.Tamilarasi
2. M.Bhagyalakshmi
3. M.Deepika
4. M.Gayathri

(Petitioners 3 & 4 are minors

Rep by Mother and Natural Guardian

Mrs.R.Tamilarasi)

...

Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree of the Hon'ble Motor Accidents Claims Tribunal (IV Court of Small Causes), Chennai, in M.C.O.P.No.6569 of 2013 dated 29/7/2016.

For Appellant ... Mr.K.S.Suresh
 For Respondents ... Mr.P.Kuppusamy
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J U D G M E N T

[Judgment of the Court was made by M.Govindaraj,J]

Challenging the quantum of compensation, the State Express Transport Corporation, Chennai, has filed the above appeal, against the award passed by the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai, dated 29/7/2016, in M.C.O.P.No.6569 of 2013.

2. In the road accident that had happened, on 4/9/2013, driver of the Transport Corporation bus, dashed a lorry from behind, in which the Conductor of the bus, suffered injuries and died on the spot. The legal representatives of the deceased conductor have preferred the above claim petition, for a compensation of Rs.67,00,000/-.

3. Before the Tribunal, the claimants have marked Exs.P.1 to Ex.P.10 and three witnesses have deposed in favour of the claim petitioners. On the side of the respondent, R.W.1 driver of the bus, let in

evidence and no documents have been marked.

4. On the materials available, the Tribunal has come to the conclusion that the driver of the bus was rash and negligent and was the cause for the accident. There is no evidence to rebut the same.

5. The present appeal is against the quantum of compensation awarded by the Tribunal.

6. The deceased conductor of the Corporation bus was said to have earned Rs.25,000/- p.m., and daily batta of Rs.100/- per day. At the time of accident, he was aged about 50 years and therefore, the claim of Rs.67,00,000/- was made.

7. The wife of the deceased has let in evidence as P.W.1 and P.W.2 is the eyewitness. Ex.P.5 is the pay slip of the deceased, Ex.P.6 is the Identity Card and Ex.P.10 is the salary details of the deceased. Considering the salary slip, marked as Ex.P.5, the Tribunal has taken the monthly income of the deceased as Rs.22,644/-. However, relying on the

judgment of *K.R.Madhusudhan & Others Vs. Administrative Officer reported in 2011 (1) TN MAC 161 (SC)*, the Tribunal had come to a conclusion that in an “exceptional circumstances”, there can be an addition of future prospects to the persons, who have died after fifty years. It is well settled that even after the age of 50 years, employees would be entitled to certain increments and future promotions. The Tribunal had relied on the judgment of the Hon'ble Supreme Court, cited supra and also after considering the judgment of *Smt.Sarala Verma and Others Vs. Delhi Transport Corporation and another, reported in 2009 (2) TN MAC 1 (SC)*, had fixed the monthly income Rs.25,000/- including the future prospects. There are four claimants before the Tribunal and considering the same, the Tribunal had deducted $\frac{1}{4}$ towards personal and living expenses and following the judgment of Sarala Verma, a sum of Rs.3,00,000/- (Rs.25,000/- x 12) was arrived at and after deducting $\frac{1}{4}$ i.e, Rs.75,000/- , the only contribution to the family was arrived at Rs.2,25,000/-.

8. As per the judgment of Sarala Varma, the multiplier was fixed at 11, as the deceased was between 51 to 55 years. So, applying the

multiplier 11, loss of dependency was calculated at Rs.24,75,000/- (Rs.2,25,000/- x 11). The Tribunal has awarded Rs.75,000/- each towards loss of Love and Affection to the unmarried and minor daughters. Rs.25,000/- towards funeral expenses. A sum of Rs.1,00,000/- was awarded to the wife for loss of consortium. Thus, a total sum of Rs.28,25,000/- was awarded as total compensation.

9. On considering the age of the deceased and his employment as Conductor in the very same Transport Corporation, the Tribunal is very much reasonable in considering the future prospects of getting increments as well as promotions. However, the Tribunal is very much cautious in adding a sum of Rs.2,456/- alone towards future prospects, which is very much lesser than 15%. It is very clear that had he continued in service upto 58 years, the loss of income at the rate of Rs.22,644/-, would be calculated for the remaining period of service. It would be much more than the calculation now made by the Tribunal. However, there is no appeal from the claimants and we do not express our opinion on this aspect.

10. In so far as, the award of compensation under other heads are also reasonable and hence the award of the Tribunal, passed in M.C.O.P.No.6569 of 2013, does not warrant any interference.

11. Accordingly, this **Civil Miscellaneous Petition is dismissed.** The appellant Corporation is directed to deposit the award amount along with interest at the rate of 7.5% p.a., from the date of filing of the petition till the date of realization and with costs, within a period of four weeks from today. The amount apportioned to the minors shall be deposited in any one of the Nationalized Banks under reimbursement scheme, initially for a period of three years. Share of the respondents/1 and 2 can be withdrawn, by making necessary applications. Tribunal is directed to disburse the share of the respondents 1 and 2, only on proper identification and proof. No costs. Consequently, the connected Miscellaneous Petition is closed.

(S.M.K.,J) (M.G.R.,J)
5th April 2017

mvs.

Index: Yes/No

website: Yes/No

To

Motor Accidents Claims Tribunal (IV Court of Small Causes), Chennai.

S.MANIKUMAR,J
A N D
M.GOVINDARAJ,J

mvs.

C.M.A.No.1217 of 2017

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