

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

C.M.A.No.2214 of 2017
and
C.M.P. No.11777 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram.

... Appellant

Versus

1.Samydurai
2.Nadesan
3. Subramaniyan
4.Selvamani
5. Rajendiran
6.Kalaiyarasi
7. Elantheraiyan @ Stalin
8. Jansy

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 59 of 1988 to against the Judgment and decree dated 22.10.2013 made in M.C.O.P. No.387 of 2010 on the file of Motor Accident Claims Tribunal, The Additional Subordinate Court, Virdhachalam.

For Appellant : Mr.P.Paramasivadoss

JUDGMENT

Petition to condone the delay of 978 days in re-presentation though inordinate, this petition was considered along with the merits of the matter,

<http://www.judis.nic.in> as it is felt that no prejudice shall be caused to the claimants, if the appeal

is not admitted and at the same time, it will give a sense of satisfaction to the appellant, when the matter is heard on merits after condoning the delay.

2. The legal representatives of the deceased, Chellapangi, has filed the claim petition claiming a sum of Rs.7,00,000/- as compensation.

3. The deceased Chellapangi, aged 65 years earning a sum of Rs.10,000/- p.m., through Basket making, died in an accident on 23.09.2010 and the claims Tribunal, on consideration of materials, has awarded a sum of Rs.3,72,000/- as total compensation. Challenging the same, the Transport Corporation has filed this appeal.

4. During the pendency of the claim petition, the 3rd claimant Paramasivam died and claimants 6 to 8 have been impleaded as legal representatives of the deceased 3rd claimant.

5. So far as the quantum of compensation is concerned, the age of the deceased has been fixed at 70, based upon the Post Mortem certificate. The monthly income has been fixed at Rs.4,500/- and deducting Rs.1,125/- towards personal expenses, the monthly contribution to the family has been determined at Rs.3,375/-, and applying the multiplier of 5, the loss of income has been determined at Rs.2,02,500/-;

loss of love and affection for six claimants have been awarded at Rs.25,000/- each amounting to Rs.1,50,000/-, Cremation expenses of Rs.10,000/- and Transport Expenses of Rs.10,000/- has also been awarded. Thus, the total compensation has been awarded at Rs.3,72,000/- by the Claims Tribunal.

6. The learned counsel for the appellant/transport corporation would submit that fixing of the monthly income at Rs.4,500/- is excessive, especially when the deceased was aged 70 years and that there is no document to show that the deceased was doing basket making business. It is common knowledge that from the nature of job, one cannot expect any documentary evidence. Even assuming that the deceased was not employed/doing any basket making business, for house hold services, there is no retirement age to determine the income in terms of money. If the household services are quantified and if that is considered the monthly income fixed at Rs.4,500/- cannot be said to be excessive. Further, the appropriate multiplier has been adopted and the compensation to be awarded is also appropriate under each and every heads.

7. Therefore, grounds of appeal have no merits and the appeal is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

8. The appellant /Transport Corporation is directed to deposit the

entire award amount, along with interest and costs, as ordered by the Tribunal, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimants, through RTGS within a period of two weeks thereafter. It is made clear that the compensation payable to the share of the 3rd claimant, as ordered by the claims Tribunal alone shall be apportioned equally between claimants 6 to 8, who are impleaded as legal representatives of the deceased third claimant.

13.07.2017

Index : Yes/No

Internet: Yes/No

Speaking / Non speaking

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To

1. Motor Accident Claims Tribunal, The Additional Subordinate Court, Virdhachalam.
2. The Section Officer,
V.R. Section,
High Court, Madras – 104.

Dr.S.VIMALA, J.

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