

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2017

CORAM :

THE HON'BLE JUSTICE Dr. S.VIMALA  
C.M.A.No. 2572 of 2017  
and  
C.M.P.No.14010 of 2017

The Managing Director,  
Tamil Nadu State Transport  
Corporation Limited,  
No. 12, Ramakrishna Road,  
Salem - 636 007.

... Appellant

Vs

1. Chinnusamy  
2. Chinnammal

... Respondents

PRAYER: Appeal filed Under Section 173 of Motor Vehicles Act, 1989 to set aside the Decree and order dated 13.04.2016 made in M.C.O.P.No.1465 of 2015 on the file of the Motor Accident Claims Tribunal, I Additional District Judge, Salem.

For Appellant : Mr.D.Venkatachalam

For Respondents: -

O R D E R

This appeal has been filed by the Transport Corporation, challenging the quantum of compensation awarded to the claimants. The claimants are the appellants of the deceased one Thangaraj, aged 36, an employee as a Driver, he was earning a sum of Rs.15,000/- per month died in an accident on 02.06.2015. The parents of the deceased filed the claim petition claiming a sum of Rs.20,00,000/- as compensation.

2. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.5,50,000/- as compensation under the following heads :-

|                         |   |               |
|-------------------------|---|---------------|
| Loss of Dependency      | - | Rs.5,40,000/= |
| Funeral Expenses        | - | Rs. 5,000/=   |
| Transportation Expenses | - | Rs. 5,000/=   |
|                         |   | -----         |
| Total                   | - | Rs.5,50,000/= |
|                         |   | -----         |

Challenging the compensation awarded as excessive, the Transport Corporation has filed this appeal.

3. Though many grounds have been taken in the appeal, however, at the time of argument, learned counsel appearing for the appellant restricted his argument with regard to excessive compensation awarded and, therefore, this Court is not dealing with any other issue raised in the appeal.

4. The Tribunal has passed an award taking into account, the standard of proof required in motor accident cases and the relevant observation is under:

10. Further with regard to the standard of proof required to prove the negligence, the Hon'ble Apex Court has observed as follows in "Kusum Lata & Ors Vs. Sathir & Ors, reported in 2011 (1) TN MAC 334 (SC)",

"In para 9 - It is well known that in a case relating to motor accident claims, the claimants are not required to prove the case as it is required to be done in criminal trial."

11. Further, this Hon'ble Apex Court quoted the decision of Apex Court in "Bimla Devi and Ors Vs. Himachal Road Transport Corporation and Ors, 2009 (13) SCC 530", in which the relevant observation on this point has been made and which is very pertinent and is quoted below:

"In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the Claimants. The Claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied".

5. From the above observation of the Tribunal, it is evident that the Tribunal was clear in mind as to the requirement of proof in motor accident cases. In that backdrop, there being no

documentary evidence to support the version of the claimants that the deceased was earning a sum of Rs.15,000/- per month, on the basis of the ratio laid down by the Supreme Court in Syed Sadiq - Vs - United India Insurance Co. (2014 (2) SCC 735), wherein, the Supreme Court, even in respect of a vegetable vendor has fixed the monthly income at Rs.6,000/=-, accordingly, fixed the monthly income of the deceased at Rs.6,000/=- and after deducting 50% towards the personal expenditure of the deceased and adopting the proper multiplier, has quantified the compensation under the head loss of dependency at Rs.5,40,000/=-.

6. A perusal of the order passed by the Tribunal reveals, that the Tribunal has followed the ratio laid down in Syed Sadiq's case (supra) has quantified the compensation. Though it is the contention of the learned counsel for the appellant that the monthly income is fixed on the higher side and the compensation needs to be reduced, it is to be pointed out that the Tribunal has not considered future prospective increase in income of the deceased. Had the Tribunal considered the future prospective increase in income of the deceased, the compensation would have been much more.

7. Therefore, on an overall consideration of the entire materials as also the award passed by the Tribunal, it cannot be said that the compensation awarded is excessive or disproportionate. Accordingly, this Court confirms the compensation awarded towards loss of dependency.

8. Insofar as the compensation awarded under the heads funeral expenses and transport expenses are concerned, it to be stated that the amounts cannot in any way said to be excessive. The Tribunal has awarded paltry amounts under the said heads. Considering the money value as on today, the amounts under those heads could not be said to be just and reasonable compensation. However, this Court is not inclined to interfere with the compensation awarded under the said heads.

9. For the reasons aforesaid, the appeal, being devoid of merits is liable to be dismissed and, accordingly, the same is dismissed confirming the order passed by the Tribunal. Consequently, connected miscellaneous petition is closed.

10. The Appellant / Transport Corporation is directed to deposit the entire award amount, along with interest and costs as determined by the Tribunal, less the amount, if any, already deposited, to the credit of the claim petition, 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 as per the apportionment ordered by the Tribunal,

through RTGS within a period of two weeks thereafter.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

msm/GLN

To

The Motor Accident Claims Tribunal  
(I Addl. District Judge)  
Salem.

copy to

The Section Officer  
VR Section  
High Court, Madras

C.M.A.No. 2572 of 2017

mr(co)  
aa26/03