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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2017

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THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2731 of 2017

and

C.M.P.No.15372 of 2017

Metropolitan Transport
Corporation (Divisional I) Ltd.,
rep.by its Managing Director
Chennai-2. Appellant/1st Respondent

Vs.

1.M.Kannagi ... 1st Respondent/Petitioner

2.Madammal

3.The Commissioner of Police,
Egmore, Chennai-8.

....2nd & 3rd Respondents/2nd & 3rd
Respondents

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the order and decree passed in M.C.O.P.No.4361 of 2000, dated 31.10.2005, on the file of Motor Accident Claims Tribunal, (V Judge, Court of Small Causes) at Chennai.

For Appellant : Mr.M.Krishnamoorthy

J U D G M E N T

The deceased, A.Manickam, aged 32 years, a Police Constable Egmore, Chennai, earning a sum of Rs.5,450/-, died in an accident on 03.08.2000. Therefore, the wife/1st respondent herein filed a claim petition before the Tribunal claiming compensation. The 2nd respondent herein is the mother of the deceased.

2. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.5,32,000/- as compensation, the break up of which is as hereunder :-



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Transport to hospital	-	Rs.	1,000/-
Extra nourishment	-	Rs.	1,000/-
Compensation for Pain and sufferings	-	Rs.	20,000/-
Funeral Expenses	-	Rs.	10,000/-
Loss of consortium and loss of love and affection	-	Rs.	50,000/-
Loss of Expectation of life	-	Rs.	25,000/-
Loss of estate and pecuniary benefits	-	Rs.	4,25,000/-

Total	-	Rs.	5,32,000/-

3. Challenging the said compensation awarded as excessive, the appellant/Transport Corporation has filed the present appeal.

4. It is the case of the claimant/wife that while the deceased, the course of his employment was travelling in the police jeep, due to sudden braking of the vehicle, the deceased fell down and the bus, belonging to the appellant/Transport Corporation, which was behind the vehicle, driven in a rash and negligent manner, ran over the deceased. However, the appellant/Transport Corporation contended that the accident was not due to the rash and negligent driving by the driver of the bus and that the deceased was ran over only by the police jeep and not by the bus and therefore, the driver of the Transport Corporation bus is not responsible for the accident.

5. It is the contention of the learned counsel appearing for the Transport Corporation that the deceased fell down from the police jeep, which ran over him. It is further submitted that the bus of the Transport Corporation, though was behind the jeep, was at a distance of 10 feet away from the jeep and, therefore, the bus had not ran over the deceased. To substantiate his contention, the order of the criminal court acquitting the driver of the bus from rash and negligent driving has been filed, in which the criminal court had acquitted the bus driver of the charge of rash and negligent driving.

6. The First Information Report has been filed as against the driver of the Transport Corporation. The Tribunal, on the basis of oral and documentary evidence, has given a finding that even though the driver of the bus has been acquitted by the Criminal Court, the finding of the Criminal Court is not binding on the claims Tribunal and the degree of proof required in motor accident cases is different from that in criminal cases.

7. The Tribunal, has given finding that though the accident had occurred only because of the rash and negligent driving of the driver of the Transport Corporation bus, however, no contra evidence has been let in to prove that the driver of the police jeep was not at all responsible for the accident. Therefore,



the Tribunal fastened the liability equally on both the driver of the bus as well as on the driver of the police jeep and accordingly, directed the appellant/Transport Corporation as well as the 3rd respondent to pay the compensation equally among themselves.

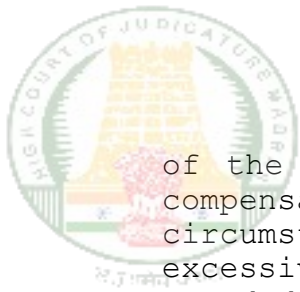
8. On a careful perusal of the award passed by the Tribunal, this Court is of the considered view that the Tribunal has applied its mind to the materials available on record and has given just and proper reasons in support of its findings and fastening the liability equally on the drivers of both the vehicles. Therefore, no interference is warranted with regard to the fastening of liability equally on the drivers of both the vehicles.

9. Insofar as the quantum of compensation is concerned, the amount of compensation has been determined as Rs.5,32,000/- out of which the claimant wife was entitled for a sum of Rs.3,82,000/- and the mother was entitled to a sum of Rs.1,50,000/-.

10. It is contended by the learned counsel for the appellant that the compensation awarded is excessive and the same needs to be reduced.

11. A perusal of the order of the Tribunal reveals that the deceased was aged 35 years at the time of accident and was earning a monthly income of Rs.4,320/-. The Salary certificate of the deceased has been filed showing the monthly income at Rs.5,372/- and carry home salary at Rs.4,332/=. The Tribunal, deducting 1/3rd towards personal expenses and adopting multiplier of 17, the loss of dependency has been quantified on the basis of the carry home salary at Rs.4,25,000/=. The Tribunal has awarded a sum of Rs.1,000/- towards transportation expenses and Rs.1,000/- extra nourishment in view of the fact that the deceased was hospitalised for five days before death and a sum of Rs.10,000/- towards cremation expenses. The loss of expectancy of life has been awarded at Rs.25,000/-, loss of consortium to the wife and the loss of love and affection to the mother has been awarded at Rs.25,000/- each and the pain and sufferings suffered by the deceased while he was taking treatment was estimated at Rs.20,000/-. Thus, the total amount of compensation has been quantified at Rs.5,32,000/-.

12. A Perusal of the award passed by the Tribunal reveals that the future prospective increase in income has not been taken into account by the the Tribunal and the Tribunal committed an error in taking the carry home salary, as the monthly income of the deceased. Had the Tribunal considered future prospective increase in income and taken the gross salary



of the deceased for computation of compensation, the amount of compensation to be paid would be still higher. In such circumstances, the contention that the compensation awarded excessive cannot be sustained. Further, the compensation awarded under the other heads are also conservative and cannot be said to be excessive or unreasonable. Therefore, this Court is of the opinion that the award passed by the Tribunal requires no interference and is liable to be confirmed.

13. In the result, this Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. Consequently, connected Civil Miscellaneous petition is closed. No costs.

14. The Appellant / Transport Corporation and the 3rd respondent herein are directed to deposit their share of the 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 judgement. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the savings bank account of the respective claimants as per the ration of apportionment ordered by the Tribunal through RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

kv/GLN

To

1.The Motor Accident Claims Tribunal,
(V Judge, Court of Small Causes), Chennai.

2.The Section Officer,
V.R. Section, High Court, Madras.

C.M.A.No.2731 of 2017
and
C.M.P.No.15372 of 2017

SJ(CO)
GN(11/04/2018)