



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1095 of 2016

&

CMP (MD) No.9831 of 2016

and

CMP (MD) No.11734 of 2017

in

Cros.Obj (MD) No.SR51085 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Division - I,
Kumbakonam.

... Appellant/Respondent

Vs.

1.Malathi
2.Priyanka
3.Raghul Kumar @ Raghul
4.Pappu
5.Chandra

... Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the judgment and decree dated 17.12.2015 passed in MCOP.No.2723 of 2013 on the file of the Motor Accident Claims Tribunal / Special District Court, Tiruchirappalli.

For Appellant : Mr.P.Prabhakaran

For Respondents : Mr.R.Subramanian

JUDGMENT

Heard the learned counsel on either side.

2.The Transport Corporation has filed this appeal questioning the impugned award both on the grounds of negligence as well as quantum.

3.One Ramkumar, an employee of Bharath Heavy Electronics Limited (BHEL) was travelling in a two wheeler on 07.06.2007 at about 09.30 P.M on the Trichy - Tanjore main road when the bus

belonging to the appellant corporation had hit him. He died on the spot. Crime No.354 of 2007 was registered on the file of the Tiruverumbur police station against the bus driver employed by the appellant corporation. The wife of the deceased, children and parents filed MCOP.No.2723 of 2013 on the file of the Motor Accident Claims Tribunal / Special District Court, Tiruchirappalli seeking compensation of a sum of Rs.20,00,000/-.

4.The Tribunal found that the accident occurred on account of the rash and negligent driving of the driver of the offending bus. The Tribunal awarded a sum of Rs.36,71,580/- as compensation to the claimants. Contending that the same is excessive, the Transport Corporation has filed this appeal.

5.The learned counsel appearing for the appellant corporation wanted this Court to fix contributory negligence on the deceased. But, before the Tribunal no evidence was adduced by the appellant corporation. Therefore, the question of apportioning any negligence of the deceased will not arise. Therefore, I sustain the finding of the Tribunal that the entire negligence was on the driver of the appellant's bus.

6.Coming to quantum of compensation, it is seen that the deceased working in the BHEL. His retirement age was 60 years. He was aged 49 years at the time of accident. Therefore, the relevant multiplier would be 13. But, we cannot mechanically applied the multiplier method. In this case, we have to go by split multiplier method. The claimants have filed Exs. "C" series to show the last drawn pay of the deceased. The monthly salary of the deceased after making one fourth deduction and adding future prospects at the rate of 30%, can be taken as Rs.28,971/-.

7.The compensation payable to the claimant will have to be reworked as under :

Monthly Salary of the deceased	Rs.29714/-
Future Prospects at the rate of 30%	Rs.8914/-
Total	Rs.38,628/-
After deduction of one fourth deduction	Rs.28,971/-
The pecuniary loss to the family	Rs.38,24,172/-
28,971x12x11	
14486x12x2	Rs.3,47,664/-
Compensation under other heads	Rs.70,000/-
Total	Rs.42,41,836/-
Income Tax deduction at the rate of 10%.	Rs.4,24,183/-
Total	Rs.38,17,653/-

8.The Tribunal awarded a sum of Rs.36,71,580/- . This Court



reworked the compensation by way of adopting the split multiplier method. In fact, it is more. Therefore, the award of the Tribunal has to be confirmed. Accordingly, the award dated 17.12.2015 passed in MCOP.No.2723 of 2013 on the file of the Motor Accident Claims Tribunal / Special District Court, Tiruchirappalli is confirmed. There is no merit in this appeal. This appeal is liable to be dismissed.

9.The appellant transport corporation is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum, from the date of petition till the date of realization and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimants are entitled to withdraw their share as apportioned by the Tribunal, by way of filing proper application, less the amount already withdrawn by them, if any.

10.This civil miscellaneous appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed. Cross Objection (MD)SR51085 of 2017 is also dismissed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Special District Judge,
Motor Accident Claims Tribunal / Tiruchirappalli.
2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai.(2 copies)

Copy to :

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Division - I, Kumbakonam.

- + 1 cc TO Mr.P.Prabhakaran , Advocate in SR No. 94298
- + 1 cc TO Mr.R.Subramanian , Advocate in SR No. 94400

skm

AE/RSK/SAR1/09.05.2018/3P/7C

C.M.A. (MD) No.1095 of 2016

&

CMP (MD) No.9831 of 2016

and

CMP (MD) No.11734 of 2017

in

Cros.Obj (MD) No.SR51085 of 2017

21.12.2017