



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1156 of 2015

and

M.P. (MD) No.3 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation,
Railway Station Road,
Kumbakonam.

... Appellant/Respondent

Vs.

1.Kiruparani
2.Bharatha Priyan
3.Minor Mani Mozhi
(The third respondent is minor
rep.by her mother and natural
guardian, the first respondent Kiruparani)

4.Seethalakshmi ... Respondents/Petitioners

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the judgment and decree made in MCOP.No.918 of 2013, dated 10.09.2014 on the file of the Motor Accidents Claims Tribunal / Special District Court, Thanjavur.

For Appellant : Mr.P.Prabhakaran

For Respondents : Mr.K.M.Karunakaran

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Managing Director, Tamil Nadu State Transport Corporation, Kumbakonam questioning the award dated 10.09.2014 made in MCOP.No.918 of 2013 on the file of the Motor Accidents Claims Tribunal / Special District Court, Thanjavur.

2.The respondents are the claimants. The husband of the first respondent Late Rathakrishnan was employed as Conductor in the appellant corporation. He fell down from the moving bus on 13.02.2013. He died on 15.02.2013. The respondents applied for compensation. The Tribunal awarded a sum of Rs.27,93,296/- with interest. Questioning the quantum of compensation awarded to the claimants, this appeal has been filed by the corporation.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Heard the learned counsel for both parties.

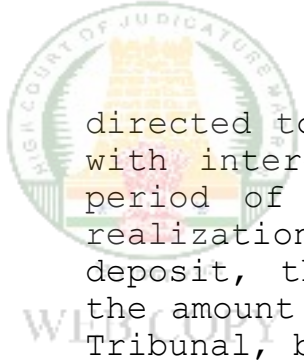


4. Though the learned counsel appearing for the appellant corporation strenuously contended that the conductor was travelling in the footboard and the fault is attributable to his own negligence, this Court sustains the finding of negligence fixed on the vehicle driver by the Tribunal. Though the Tribunal fixed the age of the deceased at 45 and adopted the multiplier 14, this Court is of the view that the age of the deceased was mentioned as 49 in the counter filed by the corporation. The counter was filed by none other than the General Manager of the appellant corporation. In paragraph No.6 it has been mentioned that his date of birth has been entered as 25.11.1964 in the service records. The said entry is based on the birth certificate. This was not questioned by the claimants. Therefore, the age of the deceased must be taken only as 49. If 49 is taken as the age of the deceased, the multiplier would be 13.

5. Since 58 is the age of his superannuation, this Court has to adopt the split multiplier method. Therefore, the compensation payable to the claimants will have to be re-worked as under :

Sl.No	Heads	Amount in Rs.
1.	Salary	Rs.18,820/-
2.	30% of salary to be added as Future prospects Rs.18,820/- + Rs.5,646	Rs.24,466/-
3.	1/3 rd of salary deducted as personal expenses	Rs.16,316/-
4.	After multiplier 9 is adopted 16316x12x9	Rs.17,62,128/-
5.	After retirement compensation multiplier 4 has to be adopted 9000x12x4	Rs.4,32,000/-
6.	Loss of income (Sl.No.4+5)	Rs.21,94,128/-
7.	Loss of consortium & love and affection of first respondent	Rs.50,000/-
8.	Love and affection to children	Rs.50,000/-
9.	Love and affection to fourth respondent	Rs.15,000/-
10.	Funeral expenses	Rs.25,000/-
	Total	Rs.23,34,128/-

<https://hcservices.courts.gov.in/hcservices/>
6. The compensation payable to the claimants is therefore reduced from Rs.27,93,296/- to Rs.23,34,128/-. The appellant is



directed to deposit the entire compensation amount to the claimants with interest at the rate of 7.5% per annum and costs, within a period of 12 weeks from the date of petition till the date of realization, less the amount already deposited, if any. On such deposit, the claimants entitled to withdraw the said amount, less the amount already withdrawn by them, if any, as apportioned by the Tribunal, by filing proper application before the Tribunal.

7.The award dated 10.09.2014 passed by the Tribunal in MCOP.No.918 of 2013 on the file of the Motor Accidents Claims Tribunal / Special District Court, Thanjavur is modified as indicated above. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1.Special District Judge,
The Motor Accidents Claims Tribunal ,
Thanjavur

2.The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+One cc to Mr.P.Prabhakaran, Advocate, SR.No.84054

+One cc to Mr.K.M.Karunakaran, Advocate, SR.No.84131

sknm

RL/5C/3P/SKN/RSK/SAR1/13/12/2017

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