



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No. 588 of 2017

and

M.P. (MD)No.6158 of 2017

M/s. State Express Transport Corporation Ltd.,
2, Pallavan Salai,
Chennai - 600 002.

... Appellant / Respondent

Vs.

1.Mohammed Hussain
2.Rahima Begam
3.Minor Kathija Beevi

(Minor 3rd Respondent is represented

by her father and next friend Mohammed

Hussain the 1st respondent).

... Respondents / Petitioners

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and decree made in M.C.O.P.No.51 of 2015 dated 28.09.2016 on the file of the Motor Accidents Claims Tribunal, Special District Court, Tiruchirappalli.

For Appellant

:Mr.P.Prabhakaran

For R1 to R3

:Mr.N.Sudhakar Nagaraj

J U D G M E N T

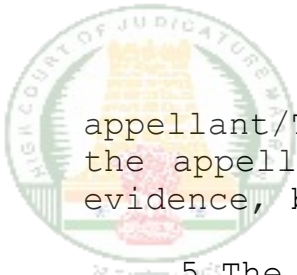
This Civil Miscellaneous Appeal has been filed against the Award and decree dated 28.09.2016 made in M.C.O.P.No.51 of 2015 on the file of the Motor Accidents Claims Tribunal, Special District Court, Tiruchirappalli.

2.It is the case of the claimants before the Tribunal that the claimants along with the deceased were travelling in a bus bearing registration No.TN 01 AN 0027 from Thindivanam to Chennai and when it nearing Melapettai Panchalam Division road, due to the rash and negligent driving of the driver of the bus, it was dashed against a tamarind tree, as a result of which, the deceased died on the spot.

3. The claimants filed an application in M.C.O.P.No.51 of 2015, on the file of the Motor Accidents Claims Tribunal, Special District Court, Tiruchirappalli.

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

4. Before the Tribunal, the claimants examined one witness as P.W.1 and marked seven documents as Ex.P.1 to Ex.P.7. The



appellant/Transport Corporation examined one witness as R.W.1 and the appellant/Transport Corporation did not let in any documentary evidence, before the Tribunal.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the bus and therefore, held that the appellant herein is liable to pay the compensation of Rs.10,53,748/- with 7.5% interest.

6. Against which, the appellant/Transport Corporation has filed this present appeal challenging the quantum awarded by the Tribunal.

7. The learned counsel for the appellant/Transport Corporation submitted that when there is no proof filed to prove the income of the deceased, the Tribunal erroneously fixed a sum of Rs.6,500/- as monthly income of the deceased and further, no proper deduction has been made towards personal expenses and therefore, compensation awarded by the Tribunal, warrants interference.

8. Per contra, the learned counsel for the respondents/claimants submitted that after elaborate discussion only, the Tribunal has fixed the monthly income of the deceased as Rs.6,500/- and also considering the number of family members, the Tribunal has rightly deducted 1/3rd amount towards personal expenses of the deceased and therefore, the award passed by the Tribunal does not warrant interference. In support of his submission, the learned counsel would draw the attention of this Court to Paragraph No.7 of the award passed by the Tribunal, wherein it has been rendered as follows:

"As per the postmortem certificate Ex.P2, the deceased Zennath begam was aged about 47 years. Petitioner submits that she was doing tailoring work and earned Rs.20,000/- per month. The identity card of the deceased given by the tailoring association marked as Ex.P3. It proves that she entering to the tailoring association as a member on 30.12.2013. But there is no income proof. Petitioner relied the 2016 (1) TNMAC page 261 as per that notional income of Rs.6,500/- is fixed and future prospects 30% is taken into consideration thereby her income is fixed Rs.5633/-.

Her monthly Salary is fixed as Rs.6,500/-

Her salary Rs.3,500 x 1/3rd amount of

Rs.1,167=Rs.6,500 -Rs.2,167 = Rs.4,333/-

30% future prospectus Rs.1,300 = Rs.4,333 + Rs.1,300
= Rs.5,633 x 12 x 13 = Rs.8,78,748/-.

The deceased left behind her husband and daughters. Considering the circumstances and family situation this Court passed the award of Rs.8,78,748/- due to loss of income of the deceased."



9. Heard the submissions made on either side and perused the materials available on record.

10. With regard to quantum of compensation, at the time of accident the deceased was stated to be doing tailoring work and was earning a sum of Rs.20,000/- per month. To show that the deceased was earning about Rs.20,000/- per month, no document was filed. Therefore, the Tribunal took the notional income of Rs.6,500/- as monthly income, which is correct. Since the age of the deceased was found to be 47 years, the appropriate multiplier to be applied as per the **Smt. Sarla Verma .vs. Delhi Transport Corporation reported in 2009(2) TN MAC 1 (SC)** case, is '13', which is also rightly awarded by the Tribunal. Hence, I do not find any infirmity in the award passed by the Tribunal.

11. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 28.09.2016 made in M.C.O.P.No.51 of 2015 on the file of the Motor Accidents Claims Tribunal, Special District Court, Tiruchirappalli, is hereby confirmed. The appellant/Transport Corporation is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the major claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, with proportionate interests and costs. The Tribunal is directed to deposit the share of the minor claimant in any one of the Nationalised Banks, in a Fixed Deposit scheme, till the minor attains majority. The guardian of the minor claimant, is permitted to withdraw the accrued interest once in three months directly from the bank, only for the welfare of the minor. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To,

The Special District Judge,
Motor Accidents Claims Tribunal,
Tiruchirappalli.

+1cc to Mr.P.PRABHAKARAN Advocate in SR. No. 73018

+1cc to Mr.N.SUDHAKAR NAGARAJ Advocate in SR. No. 73164

RJ2

JS/SKN.RSK/SAR.1/26.09.2017/ 3P-4C

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