



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.723 of 2017
and
CMP (MD) No.7651 of 2017

The Managing Director,
State Express Transport Corporation (SETC),
Thiruvalluvar House, Pallavan Salai,
Chennai. ... Appellant / 1st Respondent

Vs.

1.P.Sankar

2.Minor S.Mareeswari

3.Minor S.Parameswari

4.Minor S.Harini

(Minor respondents are
rep.by their father, natural guardian
1st respondent P.Sankar)

5.Annumachan ... Respondents 1 to 5/Petitioners

6.Guruvaiah ... 6th Respondent / 2nd Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decreetal order dated 20.01.2017 made in MCOP.No.84 of 2014 on the file of the Motor Accidents Claims Tribunal, Sub Court, Sivakasi.

For Appellant : Mr.P.Prabhakaran

For Respondent : Mr.S.Srinivasa Raghavan for R1
(R2-4, minors rep.by R1)

Mr.G.Sridharan for R6.
R5 - No appearance

JUDGMENT

Heard the learned counsel on either side.
<https://hcservices.ecourts.gov.in/hcservices/>

2.The Transport Corporation has filed this appeal questioning

the award principally on the ground of quantum. The deceased was one Mahalakshmi. She was travelling as a pillion rider on 25.05.2014 at about 19.20 hrs. The bus belonging to the appellant corporation dashed against the two wheeler. In the resulting accident, the said Mahalakshmi died. The Tribunal awarded a sum of Rs.23,29,000/-.

3.The Tribunal had given a finding that the accident had occurred on account of the rash and negligent driving of the driver employed by the appellant corporation. This finding is based on credible material. I sustain the said finding. The deceased was working as a worker in Lavanya Fire Works Factory, Sivakasi. The accident had taken place in the year 2014. The monthly income can very well be taken as Rs.6000/-. Since the deceased was working in the fire works factory, one can conclude that she would have been paid bonus also.

4.In the present case, the Tribunal came to the conclusion that four months salary can be taken as the bonus component. I am of the view that evidence adduced by the claimants in this regard is not inspiring enough. However, it is common knowledge that bonus is given for the workers. Taking two months's salary as bonus, the monthly income of the deceased would come to Rs.7,000/-. Since the deceased was aged about 28 years, 40% future prospects will have to be added. The total would then be Rs.9800/-. After deducting one fourth, the monthly income available for the family would be Rs.7466/-. Multiplier 17 is to be adopted. Therefore, the compensation payable to the claimants will have to be reworked as under :

Pecuniary loss : Rs.15,23,064/-
(7466x12x17)

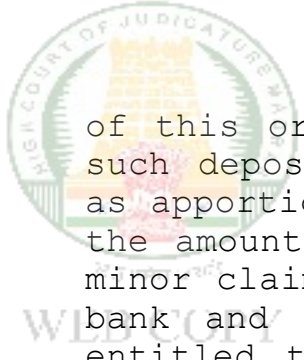
Loss of consortium and loss
of love and affection : Rs.1,47,000/-

Loss of estate and
funeral expenses : Rs. 30,000/-

Total : Rs.17,00,064/-

5.The compensation payable to the claimant is reduced from Rs.23,29,000/- to Rs.17,00,064/-. The award dated 20.01.2017 made in MCOP.No.84 of 2014 on the file of the Motor Accidents Claims Tribunal, Sub Court, Sivakasi is modified.

6.The appellant 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 filing proper application, less the amount already withdrawn by them, if any. The share of the minor claimants shall be deposited in any one of the nationalised bank and the natural guardian, namely the first respondent is entitled to withdraw the interest once in three months directly from the bank.

7.This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

SKM

To

The Sub Judge,
Motor Accidents Claims Tribunal,
Sub Court, Sivakasi.

Copy To:-

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC TO Mr. S.Srinivasa Raghavan , Advocate, Sr.No. 90164

+1 CC TO Mr. P.Prabhakaran , Advocate, Sr.No. 89967

JAM/06/03/2018/ GT / SAR 2 / 3p-6c

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