



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.08.2017
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A (MD) Nos. 1242 of 2011
and
M.P. (MD) No.3 of 2011

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Madurai Ltd., Madurai. ... Appellant/Respondent

Vs.

1.Senthilakshmi
2.Kathavarayan
3.Deivendran
4.Chithradevi
5.Arunadevi ... Respondents/ Petitioners

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.146 of 2008, dated 30.04.2010 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Srivilliputhur.

For Appellant : Mr.M.Prakash
For Respondents : Mr.G.Marimuthu

J U D G M E N T

The Civil Miscellaneous Appeal has been filed against the Judgment and Decree passed in in M.C.O.P.No.146 of 2008, dated 30.04.2010 on the file of the Motor Accidents Claims Tribunal, Sub Court, Srivilliputhur.

2. The brief facts of the case are as follows:

It is a case of fatal, which occurred in the accident which took place on 10.05.2008 at about 09.20 p.m. When the deceased was driving a tempo van bearing Registration No.TN-04-M-0934 in Rajapalayam - Srivilliputhur main road, a bus belonging to the respondent Transport Corporation bearing Registration No.TN-67-N-0333 came in a rash and negligent manner and dashed against the tempo. Due to the said impact, the deceased sustained grievous injuries and immediately after the accident, the deceased was taken to the Government Hospital, Srivilliputhur and in spite of giving intensive treatment, the deceased succumbed to the injuries. At the time of accident, the deceased was aged about 28 years and he was earning a sum of Rs.8,000/- per month by working as a salesman. The legal representatives of the deceased have filed a petition in M.C.O.P.No.146 of 2008, on the file of the Motor

Accidents Claims Tribunal cum Subordinate Court, Srivilliputhur claiming a sum of Rs.10,00,000/- as compensation.

3. Before the Tribunal, on the side of the claimants, three witness viz., P.W.1 to P.W.3 were examined and 13 documents viz., Exs.P.1 to P.13 were marked and on the side of the respondent, one witness viz., R.W.1 was examined and no document was marked.

4. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel appearing 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 offending vehicle and directed the appellant/Tamil Nadu State Transport Corporation to pay a sum of Rs.9,00,000/-, as compensation.

5. Against which, the appellant/State Transport Corporation has filed the present Civil Miscellaneous Appeal only questioning the quantum of compensation.

6. The learned Counsel for the appellant would contend that the Tribunal, while awarding loss of income, has taken a notional income as Rs.6,000/- as monthly income without any basis and since the deceased was a bachelor, the Tribunal should have deducted 50% of the income towards his personal expenses, however it has wrongly deducted 1/3rd of the monthly income. The Tribunal has also adopted wrong multiplier "18", instead of "17" as per the decision of Honourable Supreme Court in **Sarla Verma Vs. Delhi Transport Corporation** reported in **2009(2) TNMAC 1 (SC)**. Hence, he seeks interference of this Court to the award passed by the Tribunal.

7. The learned Counsel for the respondents submitted that after considering the oral and documentary evidences available on record and after considering the arguments on both sides, the Tribunal has found that the accident had occurred due to the rash and negligent driving of the driver of the offending vehicle and directed the State Transport Corporation to pay the compensation. Hence, he prays for no interference at the hands of this Court.

8. Heard the learned counsel appearing for the appellant and the learned Counsel for the respondents and perused the materials available on record.

9. The contention raised by the learned Counsel for the appellant contended that the Tribunal has wrongly taken the monthly income of Rs.6,000/-, does not merit acceptance, since the Honourable Apex Court in **Syed Sadiq v. Divisional Manager, United India Insurance Co. Ltd.** reported in **2014 (1) TNMAC 459 (SC)**, determined the monthly income at Rs.6,500/- for a vegetable vendor, even in the absence of any definite material about the income. Hence, this Court does not find any error in fixing the monthly income of the deceased at Rs.6,000/-p.m., who was working as salesman. However, the Tribunal has not added 50% of the



monthly income for future prospects. If that being so, by the applying the correct multiplier as "17", the loss of income would be arrived as follows:

$$\{Rs.6,000/- + Rs.3,000/-\} \times 50\% \times 12 \times 17 = Rs.9,18,000/-$$

10. The Tribunal has awarded total compensation of Rs.9,00,000/- to the claimants. Therefore, the award is reasonable and in all other heads, though the amounts are not reasonable, since the claimants have not filed any cross appeal, the amount granted by the Tribunal is hereby confirmed. Therefore, this Civil Miscellaneous Appeal deserves to be dismissed.

11. In the result, this Civil Miscellaneous Appeal is dismissed and the award, dated 30.04.2010, made in M.C.O.P.No.146 of 2008 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Srivilliputhur is hereby confirmed. The appellant/Tamil Nadu State 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 claimants are permitted to withdraw the entire award amount with accrued interests and costs as apportioned by the Tribunal without filing any formal petition before the Tribunal. No Costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Srivilliputhur.

+1 cc to M/S.G.M.Law Office , Advocate in SR.No. 74019
+1 cc to Mr.M.Prakash , Advocate in SR.No. 74083

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AE/KP/SAR3/25.09.2017/3P/4C

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