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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 02.11.2018

CORAM:

THE HONOURABLE Tmt. JUSTICE S. RAMATHILAGAM

C.M.A.No.3642 of 2006

and

C.M.P.No.2 of 2006

The Managing Director,
Tamilnadu State Transport Corporation,
Kancheepuram.

...Appellant/Respondent

Versus

1. Dhanalakshmi
2. Jothi
3. Munikrishnan
4. Sadhanandhan
5. Munuswamy Achari
6. Radhammal

...Respondents/Claimants

Prayer : Civil Miscellaneous Appeal filed under Sections 173 of Motor Vehicles Act, 1988 against the Award and Decree dated 27.10.2004 passed in M.C.O.P.No.800 of 2003 on the file of the Motor Accident Claims Tribunal, (Sub Court) Thiruvallur.

For Appellant : Mr. P.G.Padmanabhan

For Respondents : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Award and Decree dated 27.10.2004 passed in M.C.O.P.No.800 of 2003 on the file of the Motor Accident Claims Tribunal (Sub Court), Thiruvallur.

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

On 20.06.2003 at about 10.00 p.m., the deceased Dhakshanamoorthy was proceeding near the bus stop Ariyapakkam Village, at that time the vehicle belonging to the respondent bus bearing Registration No.TN 21 N 0321, came in a rash and negligent manner and dashed against the deceased Dhakshanamoorthy, who was walking in the left side of the road. Due to the said accident, the said Dhakshanamoorthy died on



02.07.2003 in the Government Hospital, in spite of treatment given to him. The legal heirs of the deceased Dhakshanamoorthy claimed a sum of Rs.6,00,000/- as compensation.

3. The Transport Corporation, in the counter statement denied the mode of accident and stated that the bus was stopped at Ariyapakkam Bus stop and passengers got down and also got into the bus. At that time, the conductor of the said bus did not give whistle for starting the bus. On enquiry by the driver of the bus, the conductor said a person who slept after consuming alcohol, suddenly got up and bumped into the bus, and he sustained a injuries, hence, the negligence driving on the part of the Transport Corporation bus is totally denied by the Transport Corporation and prayed for dismissal of the claim application as excessive one.

4. The Tribunal, after analyzing the evidence and documents placed before it, has given a finding that it is the rash and negligent driving on the part of the driver of the bus who is responsible for the accident. Based on the evidence and documents and also considering the age, income and occupation of the deceased, the Tribunal has awarded a sum of Rs.5,03,000/- as compensation. Aggrieved against the said Award, the appellant/Tamil Nadu Transport Corporation has preferred this appeal.

5. In the grounds of appeal, the appellant has stated that the compensation awarded by the tribunal is on the higher side without any principles. The monthly income has taken by the tribunal at Rs.3,500/- is also highly excessive and without any documentary evidence to prove the age of the deceased, the age taken by the tribunal at 45 years is also not justified. Similarly, by applying multiplier 15 and arrived the loss of income is also on the higher side. Further, the sum awarded under Medical expenses, loss of consortium, mental agony and loss of love and affection are also on the higher side and without any basis. The appellant has also argued that the accident occurred only due to the negligence aspects on the part of the deceased, at the time, he was under influence of Alcohol and he was lying on the road and while he was about the get up he himself bumped into the bus and sustained injury by falling on the road.

6. It is seen from the records, before the tribunal, P.W.2 has clearly spoken to the effect that the deceased and his brother P.W.2 were walking in the Ariyapakkam bus stop and the Transport Corporation bus, which came in a rash and negligent manner, dashed against the deceased Dakshinamoorthy, who was walking along with Dakshinamoorthy hence he preferred a compliant before the police station. The FIR registered against



the driver of the bus. Further, on investigation, the Charge Sheet was also against the driver of the Transport Corporation, the facts are very much proved and placed before the tribunal and the Tribunal has also verified the same. Further the driver of the Transport Corporation had also admitted the offences and paid the fine. Hence the defence placed by the respondent that the deceased, who was under influence of Alcohol had dashed against the stationery bus, was not considered by the Tribunal.

7. The other point argued by the appellant is that, in the absence of any proof for age and income, the Tribunal has taken the monthly income at Rs.3,500/- on the higher side and the multiplier applied by the Tribunal for the age of deceased was also not proper. On a perusal of evidence and documents, it is observed that the deceased was aged 45 years at the time of accident. For the age group of 45 years, the multiplier 14 has to be adopted. Accordingly, this Court modifies the sum awarded for loss of income at Rs.3,94,000/- without changing the monthly income fixed by the tribunal and deleting the 1/3rd towards personal expenses.

8. On a perusal of the records, the sum awarded under the the head Funeral expenses at Rs.5,000/- and also the Medical expenses that was incurred by the deceased, and the documents in Exs.P5 and P6, the Tribunal has awarded a sum of Rs.23,000/- is very much reasonable. Further sum awarded for Consortium at Rs.25,000/- is also not on the higher side, by considering the age of the first petitioner, who is the wife of the deceased. Further the sum awarded at Rs.10,000/- for Mental Agony suffered by the family and Rs.10,000/- for Loss of Love and Affection are also very much reasonable. Accordingly , the sum awarded by the Tribunal is reduced under the following heads ;

Heads	Amount awarded by the Tribunal (Rs.)	Amount modified by this Court (Rs.)
For loss of income (Rs.3,500*12 = Rs.42,000/- Rs.42,000*1/3 = Rs.14,000/- Rs.42,000-Rs.14,000 = Rs.28,000/- Rs.28,000*14 = 3,92,000/-)	4,20,000.00	3,92,000.00
For funeral expenses	5,000.00	5,000.00
For medical expenses	23,000.00	23,000.00
For Mental agony	10,000.00	10,000.00



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Heads	Amount awarded by the Tribunal (Rs.)	Amount modified by this Court (Rs.)
For pain and suffering	10,000.00	10,000.00
For loss of consortium	25,000.00	25,000.00
For loss of love and affection	10,000.00	10,000.00
Total compensation	5,03,000.00	4,75,000.00

8. In view of the above modification, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed. The award of Rs.5,03,000/- granted by the Tribunal in MCOP. No.800 of 2003 is reduced to Rs.4,75,000/-. The said amount shall carry the same rate of interest as awarded by the Tribunal, namely, 9% per annum and the apportionment shall be as ordered by the Tribunal.

9. Accordingly, the appellant/Transport Corporation is directed to deposit the modified award amount by this Court, with interest and costs, before the Tribunal, after adjusting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the same to the respective shares of respective claimants to their bank account through RTGS within one week thereon.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

pds/lpp

To

The Motor Accident Claims Tribunal,
(Sub Court) Thiruvallur.

Copy To : The Section Officer,
V.R. Section,
High Court, Madras.



+1cc to Mr.P.G.Padmanabhan, Advocate SR.No.75615

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and

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VD(CO)
GMY(18/09/2019)