

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2031 of 2012

AND

M.P.No.1 of 2012

The Managing Director,
Tamil Nadu State Transport
Corporation Division,
Dharmapuri.

...Appellant/Petitioner

Vs

1.Rukmani

2.Sundari

3.Dhanalakshmi

4.Subhashini

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 15.06.2009 and made in M.C.O.P.No.66 of 2007, on the file of Motor Vehicles Accidents Claims Tribunal, Sub Judge, Hosur.

For Appellant : Mr.V.Ramesh

For Respondents : R1 - R4 not ready in notice

JUDGMENT

The instant appeal has been filed by the transport corporation challenging the Award dated 15.06.2009 passed by the Motor Vehicles Accidents Claims Tribunal, Sub Judge, Hosur in M.C.O.P.No.66 of 2007.

2.The brief facts leading to the filing of the instant appeal are as follows:

(i) One Madhavan @ Madhavan Achari died on 17.11.2006 as a result of an accident caused by a bus bearing Registration No.TN-29-N-1133 owned by the Appellant Transport Corporation.

(ii) The dependants of the deceased are the respondents in this appeal. They preferred a claim before the Motor Accidents Claims Tribunal in M.C.O.P.No.66 of 2007 seeking a compensation of Rs.10,00,000/- for the death of Madhavan @ Madhavan Achari.

(iii) The Motor Accidents claims Tribunal by its Award dated 15.06.2009 in M.C.O.P.No.66 of 2009 directed the Appellant to pay the respondents, a sum of Rs.4,62,000/- together with interest at the rate of 7.5%, per annum from the date of claim till the date of realisation.

(iv) Aggrieved by the Award dated 15.06.2009 passed by the Motor Accidents Claims Tribunal in M.C.O.P.No.66 of 2007, the instant appeal has been filed by the Transport Corporation disputing the quantum of compensation.

3.Heard, Mr.V.Ramesh, learned Counsel for the Appellant. Till date, notice has not been served on the respondents. Since the appeal relates the year 2012, and this Court is going to confirm the Award, there is no necessity to serve the notice in this appeal on the respondents.

4.According to the learned Counsel for the Appellant, the Tribunal has erroneously come to the conclusion that only due to the rash and negligent driving by the driver of the bus, the accident had happened which resulted in the death of the deceased Madhavan @ Madhavan Achari. Further he would contend that the Tribunal has erroneously applied the wrong multiplier while assessing the compensation payable to the respondents.

5.This Court has examined the impugned Award and has also considered the materials available on record. The First Information Report was registered only against the driver of the bus. Based on the evidence available on record, the Tribunal has given a categorical finding that only due to the negligence of the driver of the bus owned by the Appellant Transport Corporation, the accident had happened which resulted in the death of Madhavan @ Madhavan Achari. No contra evidence has been produced by the Appellant Transport Corporation to disprove the contents of first information report as well as the evidence available on record.

6.The deceased at the time of the accident was aged 46 years, and he was a motor vehicle tinker mechanic at the time of the accident and was earning a monthly income of Rs.7500/-. No contra evidence has been produced by the Appellant Transport Corporation to disprove the avocation of the deceased and his monthly income at the time of the accident.

7.The Tribunal has assessed the monthly income of the deceased at the time of the accident at Rs.3600/-, even though

the respondents had claimed that the deceased was earning a monthly income of Rs.7500/- at the time of the accident.

8. Being a fatal case, the Tribunal has rightly applied the multiplier method in assessing the compensation. Even though the Tribunal has erroneously applied 15 multiplier, instead of applying 13 multiplier, considering the age of the deceased who was 46 years, the compensation awarded to the respondents under various heads, in the considered view of this Court, is low. Considering all these factors, the total compensation awarded to the respondents under the impugned Award is a just compensation.

9. In the light of the above observations, this Court is of the considered view that there is no merit in the instant appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Miscellaneous Petition No.1 of 2012 is closed. No Costs.

10. The Appellant Transport Corporation has already deposited the amount along with interest as awarded by the Tribunal to the credit of M.C.O.P.No. 66 of 2007. The respondents are permitted to withdraw the same along with accrued interest as per the ratio apportioned by the Tribunal on filing an appropriate application.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Motor Vehicles Accident Claims Tribunal,
Sub Judge,
Hosur.

2. The Section Officer,
Vernacular Section,
Madras High Court, Chennai-104.

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AND
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