

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.10.2018

CORAM:

THE HONOURABLE Mr. JUSTICE ABDUL QUDDHOSE

C.M.A.No.773 of 2011 and
M.P.No.1 of 2011

Metropolitan Transport Corporation Ltd.,
Represented by its Managing Director,
No.2, Pallavan Salai,
Chennai - 600 002. ... Appellant
Vs.

1.Meenatchi
2.Minor Selvaganesh
3.Minor Nivedha ... Respondents
(Minors represented by their mother
and next friend 1st respondent)

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decratal order dated 31.03.2008 made in M.C.O.P.No.509 of 2006 on the file of the Learned Additional District and Sessions Judge, Fast Track Court III, Motor Accidents Claims Tribunal, Poonamallee.

For Appellant : Mr.S.S.Swaminathan
For 1st Respondent : Served
For Respondents 2 & 3 : Minors Represented by R1

JUDGMENT

The instant Appeal has been filed by the Transport Corporation challenging the Award dated 31.03.2008 passed by the Motor Accidents Claims Tribunal (Additional District and Sessions Judge, Fast Track Court III), Poonamallee in M.C.O.P.No.509 of 2006.

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

One C.Maharajan died on 27.10.2005 as a result of an accident caused by a Bus bearing Registration No.TN-01-N-1714 owned by the Appellant Transport Corporation. The dependents of the deceased Maharajan are the Respondents in this appeal. They preferred a claim petition before the Motor Accidents Claims Tribunal in M.C.O.P.No.509 of 2006 seeking a compensation of Rs.12,00,000/-.

3.The Motor Accidents Claims Tribunal, by its Award dated 31.03.2008 in M.C.O.P.No.509 of 2006, directed the Appellant to pay the Respondents a sum of Rs.9,63,240/- together with 7.5% interest per annum from the date of claim till the date of realisation.

4.Aggrieved by the Award dated 31.03.2008 passed in M.C.O.P.No.509 of 2006, the instant appeal has been filed by the Appellant Transport Corporation.

5.Heard Mr.S.S.Swaminathan, learned counsel for the Appellant. Despite service of notice in this appeal on the Respondents and their names have been printed in the cause list, today there is no appearance on their behalf.

6. According to the learned counsel for the Appellant, the deceased C. Maharajan was a Government Servant and was employed as Junior Assistant in the Department of Vigilance and Anti Corruption. Therefore, the Tribunal erred in applying the monthly income at Rs.9,980/-, without taking into account that after 58 years, there will be reduction in income for the deceased as he will be receiving only pension thereafter. According to him, a lesser multiplicand ought to have been applied by the Tribunal instead of 11.

7. This Court has examined the impugned Award. The Tribunal has given a categorical finding 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 C. Maharajan. The age and avocation of the deceased at the time of the accident has not been disputed by the Appellant before the Tribunal. The monthly income of the deceased at the time of the accident has also not been disputed by the Appellant before the Tribunal. The Respondents have also filed a Salary Certificate of the deceased which is marked as Ex.P4 which will confirm that the deceased was earning a monthly income of Rs.9,977/- at the time of the accident.

8. Following the Judgment of the Hon'ble Supreme Court in Sarala Verma V. Delhi Transport Corporation reported in 2009 (2) TNMAC 1 (SC), the Tribunal, under the impugned Award, has applied the correct multiplicand of 11, considering the age of the deceased, who was 51 years at the time of the accident. The Tribunal has also deducted 1/3rd towards the personal expenses of the deceased if he was alive at the time of the accident while assessing the compensation payable to the Respondents. In all, the Tribunal has awarded a sum of Rs.8,78,240/- as compensation for the loss of income. In addition, the Tribunal has awarded a sum of Rs.5,000/- towards funeral expenses; Rs.20,000/- each to the Respondents towards love and affection, in all totaling a sum of Rs.60,000/- and another sum of Rs.20,000/- towards loss of consortium to the 1st respondent/wife and a total compensation awarded to the Respondents under the impugned Award is Rs.9,63,240/-.

9. The Respondents have filed four documents before the Tribunal which are marked as Exs.P1 to P4 and they have also examined two witnesses viz., the 1st respondent as well as an eyewitness. On the side of the Appellant, no documents were filed, but only one witness viz., the driver of the bus was examined before the Tribunal. The Award passed by the Tribunal is a reasoned and well considered Award. Only after considering the oral and documentary evidence available on record, the Tribunal passed the impugned Award. In the considered view of this Court, no ground has been made out by the Appellant for any interference by this Court.

10. In the result, there is no merit in the Appeal and accordingly, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

04.10.2018

Speaking Judgment

Index : Yes/No

Internet : Yes/No

Sgl

To

The Additional District and Sessions Judge,
Fast Track Court III,
Motor Accidents Claims Tribunal,
Poonamallee.

ABDUL QUDDHOSE, J.

Sgl

C.M.A.No.773 of 2011

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