IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2018

CORAM

THE HONOURABLE MR. JUSTICE R. SUBBIAH
AND
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

C.M.A. No. 694 of 2014
&
M.P. Nos. 1/2014 & 1/2015

Tamil Nadu State Transport Corporation Limited rep. by its
Managing Director,
Villupuram Division, Salamedu,
Villupuram. ..Appellant/Respondent

Vs.

1. Kathiresan
2. Srinivasan
3. Priyadharshini ..Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 21.12.2012 passed by the Motor Accidents Claims Tribunal (Principal District and Sessions Judge), Chengalpattu in M.C.O.P. No. 369 of 2010.

For appellant :: Mr.S. Sairaman

For Respondents:: Mr.M. Selvam

J U D G M E N T
(Judgment of the Court was delivered by R. SUBBIAH,J.)

This appeal has been filed by the Tamil Nadu State Transport Corporation questioning the quantum of compensation awarded by the Motor Accidents Claims Tribunal (Principal District and Sessions Judge), Chengalpattu, in and by award dated 21.12.2012 in MCOP No. 369 of 2010.

2. Respondents 1 to 3 herein, who are respectively the husband, son and daughter of the deceased, by name, Nandheeswari, are the claimants before the Tribunal.

3. It is the case of the claimants before the Tribunal that on 07.03.2010, at about 10.20a.m., when the deceased, by

name, Nandheeswari, was travelling as a passenger in Tamil Nadu State Transport Corporation, has Villupuram, bearing Registration No. TN-32-N-2780 from Chennai to Tiruvannamalai, on Tindivanam to Tiruvannamalai road, another bus belonging to the appellant Transport Corporation, bearing Registration No. TN-32-N-2553 , coming in the opposite direction, had dashed against the bus in which the deceased was travelling. In the said accident, the deceased and two others had died. Hence, the husband, son and daughter, as legal heirs of the deceased, filed the claim petition claiming more than Rs.1crore as compensation, but restricted the same to Rs. 80 lakhs.

4. With regard to the claim for compensation, it is the case of the claimants that the deceased was working as a Senior Accounts Officer in BSNL, CAO, IFA South West and earning a sum of Rs.57,816/- as salary per month. Hence, based on the said salary, they had made a claim for a sum of Rs.80 lakhs as compensation. In order to prove the claim on the side of the claimants, the 1st respondent examined himself as P.W.1 besides examining two other witnesses, namely, Thiru. Lakshmi Narayanan, who was a co-passenger in the bus in which the deceased travelled, as P.W.2 and another, by name, Thangamani, Senior Accountant in BSNL, as P.W.3. The claimants had also marked Exs-P1 to P21. On the side of the Transport Corporation, the conductor of the bus bearing Registration No. TN-32-N-2780 was examined as R.W.1. The Tribunal, after appreciating the entire evidence on record, came to the conclusion that the accident had occurred only due to the rash and negligent driving by the driver of the bus bearing Registration No. TN-32-N-2780 and passed an award for a sum of Rs.65,11,600/-. Questioning the said amount, the present appeal has been filed by the Transport Corporation.

5. Since the present appeal has been filed questioning only the quantum of compensation awarded by the tribunal, it is not necessary to traverse into other aspects of the award.

6. The only grievance of the appellant Transport Corporation is that the Tribunal has awarded an exorbitant amount of Rs. 64,89,600/- under the head " Loss of income" and the same requires appropriate reduction.

7. Per contra, learned counsel for the respondents would support the award passed by the tribunal.

8. Keeping the submissions made by the learned counsel on either side, this Court has carefully gone through the materials on record.

9. The only question that has to be decided is whether the amount of Rs.64,89,600/- awarded by the Tribunal towards ‘ Loss of income” is justified or not, in the factual background of the case.

10. On a perusal of the entire award, we find that the deceased was working as Senior Accounts Officer in BSNL and earning a sum of Rs.57,816/- per month. In order to prove the income earned by the deceased, on the side of the claimants, the Senior Accountant was examined as P.W.3 and Ex-P5, Salary Certificate was marked. Therefore, by examining P.W.3 and by marking Ex-P5, salary certificate of the deceased , the claimants have substantiated their claim that the deceased was earning Rs.57,816/- per month as on the date of accident. Moreover, based on Ex-P5, after deductions towards Income Tax and Professional Tax, to the tune of Rs.10,000/-, the take home salary of the deceased, namely, Rs. 47,816/-, was rounded off to Rs.48,000/- and the same was fixed as the monthly income of the dceeased. Since the deceased was aged between 40 to 50 years and was in a permanent job, 30% was added towards “Future Prospects” and a sum of Rs. 62,400/- was arrived at as “Total Monthly Income” of the deceased. The Annual Income was calculated as Rs.62,400/- x 12 = Rs.7,48,800/- and after deducting one-third towards “ Personal Expenses” and applying multiplier 13, as per II Schedule of Motor Vehicles Act, 1988, “ Loss of Income” was arrived at Rs.64,89,600/-.

11. In our considered opinion, the award passed by the Tribunal is well within the principles laid down by the Honourable Apex Court in various judgments. The entire amount of Rs.64,89,600/- is supported by documentary as well as oral evidence. Therefore, we are not inclined to accept the submission made by the learned counsel for the appellant that the Tribunal has awarded an exorbitant amount towards “ Loss of Income”.

12. That apart, we find that the Tribunal has awarded nominal amounts under the conventional heads, namely, Rs. 10,000/- towards ‘ Loss of Consortium”, Rs.2,500/- each to respondents 2 and 3 towards ‘ Loss of love and affection’ and Rs.2,000/- towards “ Loss of Estate” and a sum of Rs.5000/- towards “ Funeral Expenses”. In all, a sum of Rs.65,11,600/- was awarded as compensation with interest @ 7.5% per annum. We do not find any infirmity in the award passed by the Tribunal warranting interference by this Court. Hence, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Connected M.P.s are closed.

13. The appellant Transport Corporation is directed to deposit the entire award amount, along with interest and costs,

after deducting the amount already deposited, if any, before the Tribunal,within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the claimants are permitted to withdraw their respective shares as per the apportionment of the Tribunal.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

To
The MACT (Prl. Dist. & Sessions Judge),
Chengalpattu.

Copy to: The Section Officer,
VR Section, High Court, Madras.

+ 1 cc to MR. M. Selvam, Advocate Sr.9362
+ 1 cc to MR.S. Sairaman, Advocate Sr.7662

C.M.A.No. 694 of 2014

RSY(CO)
EU(04/04/2018)