

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1054 of 2008

The Managing Director,
Tamilnadu State Transport Corporation
Ltd, No.12, Ramakrsihna Salai,
Salem ..Appellant

Vs

1.Thangammal,
2. Minor Santhosh
3. Minor Raghuraman,
4. Minor Raghupathi
5. Chithaammal .. Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award made in MCOP.No.84 of 2005 dated 29.3.2007 on the file of the Motor Accident Claims Tribunal and Sub Court at Mettur.

For Appellant : Mr.D.Venkatachalam
For Respondents : R1 to R5 - No appearance

JUDGMENT

The instant appeal has been filed challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal (Sub Court at Mettur) in its judgment and decree dated 29.3.2007 passed in MCOP.No.84 of 2005.

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

(i) The respondents 1 to 5 are the dependents of the deceased Periasamy who died on 30.3.2005 in a fatal accident caused by a bus bearing Registration No.TN-27-N-0662, owned by the appellant Transport Corporation. The dependants of the deceased Periasamy preferred a compensation claim before the Motor Accident Claims Tribunal in M.C.O.P.No.84 of 2005 seeking a compensation of Rs.12,52,000/- which was restricted to Rs.10,00,000/-.

(ii) The Motor Accident Claims Tribunal, by its Award dated 29.3.2007 directed the appellant to pay a sum of Rs.3,09,500/- together with interest at the rate of 9% p.a. from the date of claim till the date of realisation to the respondents/claimants in the following manner;

1 st respondent	Rs. 74,500/-
Minor respondents 2 to 4 (each Rs.70,000/-)	Rs. 2,10,000
5 th respondent	Rs. 25,000/-
Total	Rs. 3,09,500/-

(iii) Aggrieved by the Award dated 29.3.2007 passed by the tribunal, the instant appeal has been filed by the Transport Corporation.

3. Heard Mr.D.Venkatachalam, learned counsel for the appellant. Till date, notice has not been served on the respondents. Since the appeal is of the year 2008, and this Court is going to confirm the Award passed by the Tribunal, there is no necessity to serve the notice on the respondents.

4. The primary ground for challenge in the instant appeal is that the monthly income of the appellant fixed by the tribunal was Rs.4,000/-, which according to the appellant is on the higher side. The case of the appellant is that the deceased Periasamy was an unemployed person even though he was holding a Master's degree in commerce and Diploma in Cooperative Study. Except this ground, no other ground has been raised for challenging the impugned Award.

5. This Court has perused and examined the Award passed by the tribunal. The respondents 1 to 5 have filed 22 documents which were marked as Ex.P.1 to P.22 by the tribunal. Two witnesses were also examined on the side of the respondents including the wife of the deceased Periasamy and the eye witness Rajendran.

6. The notional income assessed by the tribunal at Rs.4,000/- for the deceased Periasamy at the time of accident is a reasonable amount. Since there are five dependents for the deceased Periasamy, the tribunal ought to have deducted 1/4th towards personal expenses but under the impugned Award, the tribunal has deducted 1/3rd towards personal expenses which is a wrong deduction.

7. Taking into consideration the overall factual matrix, this Court is of the considered view that the compensation awarded to the respondents 1 to 5 is a just compensation. There is no merit in the instant appeal. Accordingly, the appeal is dismissed confirming the Award passed by the tribunal. No costs.

8. The appellant is directed to deposit the entire award amount as awarded by the Tribunal under the impugned Award, if not, deposited already, within a period of four weeks from the date of receipt of a copy of this order. The appellants are entitled for the compensation as per the apportionment made by the tribunal.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

msr

To
The Motor Accident Claims Tribunal
Sub Court at Mettur,
Salem.

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

+1cc to Mr.D.Venkatachalam, Advocate Sr.No.58179

SS(CO)
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