

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1071 of 2008

The Managing Director,
Tamilnadu State Transport Corporation,
Trichy 620 001

..Appellant

Vs

1. Tmt.P. Kasturi
2. M. Ranganathan
3. Minor P.Saiprasad
4. Minor P.Saipravinash
- 3 to 4 minor respondents are represented by their mother and next friend P. Kasturi
5. P.Manjula
6. The New India Assurance Co. Ltd.,
No.45, Moor Street, Chennai-1.

.. Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award made in M.C.O.P.No.4916 of 2002 dated 23.4.2007 on the file of the Motor Vehicles Accident Claims Tribunal, Small Causes Court II, Chennai.

For Appellant : Mr.D.Venkatachalam
For Respondents : R1 to R6 - No appearance

JUDGMENT

The instant appeal has been filed by the Transport Corporation challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal (Small Causes Court II at Chennai) by its Award dated 23.4.2007 in MCOP No.4916 of 2002.

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

(i) The respondents 1 to 4 are the dependants of the deceased R. Babu, who died as a result of an accident caused by a bus bearing Registration No.TN-45-N-1492 owned by the appellant Transport Corporation .

(ii) The appellants preferred a compensation claim before the Motor Accidents Claims Tribunal (Small Causes Court II at Chennai) in MCOP.No.4916 of 2002 against the appellant.

(iii) By an award dated 23.4.2007 in MCOP.No.4916 of 2002, the tribunal directed the appellant Transport Corporation and 6th respondent Insurance Company to pay a sum of Rs.4,73,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of claim at the ratio of 50:50 to the respondents /claimants in the following manner;

1 st respondent	Rs.1,23,000/-
2 nd respondent	Rs. 50,000/-
3rd and 4 th minor respondents Rs.1,50,000/- (each)	Rs.3,00,000/-
Total	Rs. 4,73,000/-

(iv) Aggrieved by the Award dated 23.4.2007 passed in MCOP.No.4916 of 2002, the instant appeal has been filed by the Transport Corporation.

3. Heard Mr. D.Venkatachalam, learned counsel for the appellant.

4. 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.

5. The grounds for challenge raised in the appeal are as follows;-

(a) The tribunal failed to consider that the deceased was driving his car negligently and there was no FC and RC for the car.

(b) The tribunal has failed to consider that the driver of the bus belonging to the appellant Transport Corporation was acquitted from the criminal case.

(c) The tribunal has erroneously fixed Rs.3,000/- per month as the monthly salary of the deceased and has applied 17 multiplier which is not proper and without proof.

6. This Court has perused and examined the impugned Award and does not find any infirmity in the same. The respondents 1 to 4 have filed six documents before the tribunal which were marked as Ex.P.1 to Ex.P.6. Three witnesses were examined on the side of the respondents 1 to 4 which included the eye witness. The dependants of the deceased are four in number, but the tribunal has deducted 1/3rd towards personal expenses of

the deceased, whereas the correct deduction ought to be 1/4th.

7. The tribunal has applied 17 multiplier under the impugned award. The submission of the appellants that the tribunal has erroneously applied 17 multiplier instead of 16 multiplier may be correct but the tribunal has also committed error in deducting 1/3rd towards expenses instead of 1/4th as there are four dependants for the deceased.

8. Considering the over all facts and circumstances of the case, this Court is of the considered view that the compensation awarded by the tribunal in favour of respondents 1 to 3 is a just compensation. There is no merit in the instant appeal. Accordingly, the appeal is dismissed. No costs. Connected M.P.1 of 2008 is closed.

9. The appellant Transport Corporation and the 6th respondent Insurance Company is directed to deposit the entire award amount along with accrued interest as apportioned by the tribunal to the credit of MCOP.No.4916 of 2002, if not, already deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondents 1 to 4/claimants are entitled to their respective shares as apportioned by the tribunal. The 1st and 2nd respondents are entitled to withdraw their respective shares along with accrued interest lying in the credit of MCOP. The share of the minor claimants shall be deposited in any of the Nationalised Bank till they attain majority and the 1st respondent/natural guardian is permitted to withdraw the interest accrued on the amount of the shares of the minor once in six months.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

msr
To

1. Motor Vehicles Accident Claims Tribunal,
Small Causes Court II, Chennai.
2. The Record Keeper,
VR Section,
High Court, Madras.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.58178

C.M.A.No.1071 of 2008

RGN(CO)
GSP(12/11/2018)