

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1079 of 2008

The Managing Director,
Tamilnadu State Transport Corporation,
Kancheepuram Division,
No.3/37 Salamedu,
Villupuram

...Appellant/Respondent

Vs

1. Munusamy
2. Karthik
3. Kala
4. Minor Kanakavalli alias Kanaka
5. Minor Devi
6. Minor Desingh
7. Minor Manivannan
8. Minor Selvam
9. Minor Kuttiyamma
10. Minor Muthu

Minors represented by their father
and guardian 1st Respondent ... Respondents/Claimant

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award made in MCOP.No.233 of 2005 dated 04.01.2007 on the file of the Motor Vehicles Accident Claims Tribunal and Principal District Judge, Chengalpattu.

For Appellant : Mr.D.Venkatachalam

For Respondents : R1 to R10 - No appearance

ORDER

The instant appeal has been filed challenging the quantum of compensation awarded by the Tribunal in its Award dated 4.1.2007 passed in MCOP.No.233 of 2005 (Principal District Judge, Chengalpattu).

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

(i) The respondents 1 to 10 are the dependants of the deceased Lakshmi who died as a result of the accident that took place on 11.12.2004 caused by a bus bearing Registration

No.TN-21-N-0082 owned by the appellant Transport Corporation.

(ii) The respondents preferred a compensation claim before the Motor Accidents Claims Tribunal claiming compensation of Rs.8,06,500/- but restricting it to Rs. 7 lakhs.

(iii) The Tribunal, by its Award dated 4.1.2007 in M.C.O.P.No.233 of 2005 directed the appellant Transport corporation to pay a sum of Rs.4,38,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation and also awarded costs in favour of the respondents. Out of the compensation awarded, the respondents are entitled to Rs.43,800/- each along with proportionate interest and costs.

(iv) Aggrieved by the Award dated 4.1.2007 passed in M.C.O.P.No.233 of 2005, 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, this Court considers that it is not deemed fit to keep the appeal pending further. Since this Court is confirming the Award passed by the Tribunal, there is no necessity to serve the notice on the respondents.

4. According to the learned counsel for the appellant, the primary ground for challenge in the instant appeal is that the tribunal has erroneously applied the 17 multiplier. According to him, considering the age of the deceased, only 16 multiplier will have to be applied. Therefore, according to him, the quantum of compensation awarded to the respondents is an excessive one.

5. This Court has perused and examined the impugned Award. Admittedly, the dependants of the deceased Lakshmi are 10 in number who are the respondents herein. The dependants are her husband and her nine children. The respondents have filed six documents in support of their claim which were marked as Ex.P.1 to Ex.P.6 by the tribunal.

6. PW1 who was the eye witness to the accident as well as the first respondent, was examined on the side of the respondents as a witness before the Motor Accident Claims Tribunal. The tribunal has also made a categorical finding that only due to the rash and negligent driving by the driver of the bus owned by the appellant transport Corporation, the accident had happened resulting in the death of Lakshmi. Since there are 10 dependants for the deceased Lakshmi, the Tribunal has erroneously deducted 1/3 towards personal expenses of the deceased instead of 1/5th which is the correct deduction as per the decisions of the Hon'ble Supreme Court in the case of Sarla Verma and others vs. Delhi Transport Corporation and another reported in 2009 (2) TNMAC 1 (SC).

7. Even though the multiplier may have been wrongly applied by the tribunal to be 17, instead of 16, considering the erroneous deduction of 1/3rd towards personal expenses of the deceased and also considering the over all facts and circumstances of the instant case including the fact that there are 10 dependants for the deceased, this Court is of the considered view that the Award of compensation under the impugned Award is a just compensation. Therefore this court does not find any merit in the instant appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

ii) The appellant Transport Corporation is directed to deposit the amount awarded by the tribunal along with accrued interest to the credit of MCOP.No.233 of 2005, if not, already deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents 1 to 10 are entitled for their respective shares as apportioned by the tribunal.

iii) The respondents 1 to 3 are entitled to withdraw their respective shares along with accrued interest lying in the credit of MCOP.

iv) The share of the minor claimants shall be deposited in any of the Nationalised Banks till they attain majority and the 1st respondent/natural guardian is permitted to withdraw the interest accrued once in six months.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msr/nl

To

1. The Principal District Judge
Motor Vehicles Accident Claims Tribunal,
Chengalpattu.

2.The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.D.Venkatachalam, Advocate SR.No.58177

SV(CO)
sm:8.10.2018

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