

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1199 of 2008

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Railway Station Road,
Kumbakonam Town & Munsifi.Appellant/Respondent

Vs

1. Jahir Hussain
2. JubaidhaRespondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the sMotor Accidents Claims Tribunal, District Court at Nagapattinam in M.C.O.P.No.29 of 2007 dated 13.08.2007.

For Appellant : Mr.D.Venkatachalam

For Respondents: Miss.S.T.P.Kuilmozhi For R1 & R2 - NA

JUDGMENT

The instant appeal has been filed by the Transport Corporation challenging the Award dated 13.08.2007 passed by the Motor Accidents Claims Tribunal, District Court at Nagapattinam in M.C.O.P.No.29 of 2007.

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

(i) Abigani, aged about 19 years, working as a tailor, getting a monthly income of Rs.4,500/-, died on 05.03.2005, as a result of an accident caused by a bus bearing Registration No.TN-45-N-1424, owned by the Appellant Transport Corporation.

(ii) The dependants of the deceased Abigani, are the respondents in this appeal. They made a compensation claim before the Motor Accidents Claims Tribunal, District Court at Nagapattinam in M.C.O.P.No.29 of 2007.

(iii) The Motor Accidents Claims Tribunal, by its Award

dated 13.08.2007 in M.C.O.P.No.29 of 2007, directed the Appellant Transport Corporation to pay a sum of Rs.2,81,000/- to the respondents together with interest at the rate of 7.5%, per annum from the date of claim till the date of realisation.

3. Aggrieved by the Award dated, 13.08.2007 passed by the Motor Accident Claims Tribunal in M.C.O.P.No.29 of 2007, the instant appeal has been filed.

4. Heard, Mr.D.Venkatachalam, learned Counsel for the Appellant and Miss.S.T.P.Kuilmozhi, learned Counsel for the first respondent.

5. According to the learned Counsel for the Appellant, the only ground for challenge in the instant appeal is that the Tribunal has erroneously fixed the monthly income of the deceased Abigani at the time of the accident at Rs.2,000/- per month.

6. This Court, after having considered the materials available on record and after examining the impugned award and after hearing the submissions of the respective Counsels observes the following:

(a) It is an undisputed fact, that the deceased Abigani, died as a result of an accident caused by the bus owned by the Appellant Transport Corporation.

(b) The age of the deceased is undisputed.

(c) Even though the respondents who are the dependents of the deceased have made a claim, disclosing that the monthly income of the deceased at the time of the accident was Rs.10,000/- per month, the Tribunal under the impugned Award has fixed the monthly income only at Rs.2,000/-. No Contra evidence has been produced by the appellant before the tribunal to disprove the monthly income that the deceased was earning at the time of the accident. Therefore, being a reasonable sum, the grounds raised by the Appellant before this Court that the Tribunal has erroneously fixed the monthly income of the deceased at Rs.2,000/- cannot be accepted by this Court.

7. The Tribunal has awarded a total sum of Rs.2,81,000/- as compensation to the respondents which is detailed below:

Heads	Amount
Loss of Income	Rs.2,72,000/-
Loss of consortium to 1 st respondent	Rs. 5,000/-
Loss of love and affection to 2 nd respondent	Rs. 2,000/-
Funeral expenses	Rs. 2,000/-

Heads	Amount
Total	Rs. 2,81,000/-

8. This Court is of the considered view, that the compensation awarded to the dependents of the deceased is a just compensation. In the light of the above observations, there is no merit in the instant appeal. Accordingly the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected M.P.No.1 of 2008 is closed.

9. The appellant Insurance Company is directed to deposit the amount awarded by the tribunal along with interest as awarded by the tribunal, if not already deposited, in to the credit of M.C.O.P.No.29 of 2007 within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents are permitted to withdraw the same on filing an appropriate application.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

arb/msr

To

1.Motor Accidents Claims Tribunal,
District Court at Nagapattinam.

2.The Record Clerk,
VR Section,
High Court, Madras.

+1cc to Mr.D.Venkatachalam, Advocate SR.No.60270

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GMY (16/10/2018)