

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.09.2018

CORAM

The Honourable JUSTICE S.RAMATHILAGAM

CMA.No.1651 of 2007
and
CMP No.2223 of 2007

Tamil Nadu State Transport Corporation Ltd.,
(Kumbakonam III Division),
rep.by its Managing Director,
Karaikudi.

..Appellant/Respondent

.. Vs..

1.S.Parimala

2.Minor S.Rajakumar

3.Minor S.Rajalakshmi

... Respondents

Appeal filed under Section 173 of M.V.Act, to set aside the judgment and decree dated 05.06.2002, made in M.C.O.P.No.559 of 2001 on the file of Principal District Judge, Motor Accident Claims Tribunal, Nagapattinam.

For Appellant : Mr.M.Selvam
for Mr.R.Arunmozhi

For Respondents: Ms.S.T.P.Kuilmozhi for R 1
R 2 & R 3 minors rep.by R1

JUDGMENT

The appellant herein is the Tamil Nadu State Transport Corporation Limited, (Kumbakonam III Division), Karaikudi, which has preferred this appeal against the judgment and decree dated 05.06.2002, made in MCOP No.559 of 2001.

2.The brief facts of the claim application is that the deceased who was working as conductor in the Tamil Nadu Transport Corporation, Kumbakonam Bus bearing registration No.TN 49-N-0798. On 02.12.2000 at about 10.55 a.m., the deceased came to the Pattukkottai Bus Stand and he was about to proceed to

Ramanathapuram. He was standing near the bus close to the head light of the bus. At that time, the bus bearing registration No.27-N-0830 driven by its driver in a rash and negligent manner came inside the bus stand and hit against the deceased who was standing very close to the bus and he was crushed and immediately, he was taken to Pattukkottai G.H.Hospital, wherein it was informed that he already died. A Criminal case in Crime No.1004 of 2001 under Section 304 A was also registered in the Pattukkottai Police Station. The legal heirs of the deceased Singaravelan filed a claim application, claiming a compensation of Rs.15,00,000/-. The tribunal after assessing the evidence and documents placed by both sides fixing the age of the deceased as 42, and applying multiplier 14, determined the loss of income. The tribunal also awarded sums under various heads and the total sum awarded as compensation was Rs.6,75,928/-.

3.The appellant herein, the Transport Corporation has preferred this appeal on the ground that it is the deceased who was responsible for the accident and it is the negligence on the part of the deceased which resulted in the accident and at the most, contributory negligence also lie on the deceased. In fixing the quantum, the tribunal has also not followed the correct procedure. Among all other grounds, the appellant herein is mainly disputing the quantum of Rs.6,75,928/- and the application of the multiplier for the age of the deceased.

4.The first petitioner in the claim application is the wife of the deceased. The occupation of the deceased is not disputed by the respondent Corporation. The deceased was a conductor in the Tamil Nadu Transport Corporation, Kumbakonam Branch, and his monthly salary of Rs.6,560/- has been proved by his salary certificate - Ex.P-5. It is also observed that he was given some special pay during the festival season. The age of the deceased was also determined from the Postmortem Certificate. But, in Ex.P-6 his date of birth is 04.05.1958. Hence, his correct age is 42 years on the date of accident. The legal heirs of the deceased Singaravelan are totally 8 members. The tribunal has assessed all the facts and awarded the compensation under the following heads:

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Heads		Tribunal award	
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Loss of Income	-	Rs.6,62,928.00	
Funeral Expenses	-	2,000.00	
Loss of consortium	-	5,000.00	
Loss of love and affection	-	6,000.00	

Rs. 6,75,928.00

5. Heard both sides and perused the documents available on record.

6. The Tribunal took the monthly income of the deceased as Rs.6,313/- and this Court confirms the said amount. Applying one-third deduction, the monthly contribution of the deceased to his family comes to Rs.4,208.7 (Rs.6,313/- (-) 1/3(Rs.6,313/-). Since the deceased was aged about 42 years, the correct multiplier of 14 was adopted by the Tribunal. Accordingly, applying the same, the "Loss of Income" is arrived as follows

Loss of Income :: Rs.4,208.7 x 12 x 14
:: Rs.7,07,061/-

7. The sum awarded by the Tribunal under the heads consortium, love and affection and funeral expenses, are just and proper and therefore confirmed. Only with regard to adopting the multiplier, the appellant is contradicts the view taken by the Tribunal, for which the respondent has vehemently argued that the appropriate multiplier is 14 that should not be changed. Hence, in view of the argument and also the sum awarded under various heads, this Court modifies the sum awarded under various heads as follows :

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Heads		Modifying Award	
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Loss of Income	-	Rs.7,07,061.00	
Funeral Expenses	-	2,000.00	
Loss of consortium	-	5,000.00	
Loss of love and affection	-	6,000.00	

		Rs.7,20,061.00	

8. In view of the same, the appeal preferred by the Tamil Nadu State Transport Corporation is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

9. Accordingly, the Transport Corporation is claimed to deposit the modified amount along with interest at 7.5% per annum, to the credit of MCOP No.559 of 2001, dated 05.06.2002, on the file of Motor Accident Claims Tribunal, Nagapattinam, less the amount already deposited within a period of two weeks from the date of receipt of a copy of this order. On such

deposit is already made, the Tribunal is directed to transfer the amount to the Claimant Bank through RTGST within a period of one week thereon.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

KP/LPP

To

The Principal District Judge,
The Motor Accident Claims Tribunal,
Nagapattinam.

Copy to:-

The Section Officer
VR Section, High Court,
Chennai.

+1cc to Mr. R.Arunmozhi, Advocate, S.R.No. 65465
+1cc to Ms. S.T.P.Kulmozhi, Advocate, S.R.No. 64780

CMA.No.1651 of 2007

SAI (CO)
GN(11/02/2019)