

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3244 of 2008

The Managing Director,
Tamilnadu Transport Corporation Ltd.,
Division-I, 12 Ramakrishna Road,
Salem-7. ...Appellant /Respondent

Vs

1. Valarmathi
2. Nagarajan ...Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Hon'ble Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court-II, Salem in M.C.O.P.No.1987 of 2004 dated 01.02.2008.

For Appellant : Mr.V.Ramesh
For Respondents : Mr.K.Kuppusamy For R1&R2

JUDGMENT

The instant appeal has been filed challenging the Award dated 01.02.2008 passed by the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court -II, Salem in M.C.O.P.No.1987 of 2004.

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

(i)Naveen, 18 years, died on 30.09.2004, while he was travelling as a passenger in a Tata Indica Car bearing Registration No.TN-01-V-3726, along with his family from Chennai-Coimbatore as a result of an accident caused by a Transport Corporation bus bearing Registration No.TN-27/N.1000 owned by the Appellant Transport Corporation.

(ii) The dependants of the deceased Naveen, preferred a claim before the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court-II, Salem in M.C.O.P.No.1987 of

2004, seeking compensation for Naveen who died in the accident caused by a bus owned by the Appellant Transport Corporation.

(iii) The respondents in this appeal are the claimants in M.C.O.P.No.1987 of 2004 and they made a claim of Rs.20,00,000/- before the Motor Accidents Claims Tribunal. The Motor Accidents Claims Tribunal by its common judgment dated 01.02.2008 in M.C.O.P.Nos.1987 of 2004, directed the Appellant to pay a sum of Rs.4,51,000/- to the respondents together with interest at the rate of 7.5%, per annum from the date of claim till the date of realisation towards the compensation for the death of Naveen caused by a bus owned by the Appellant Transport Corporation. Out of the compensation awarded, the 1st respondent is entitled for a sum of Rs.2,51,000/- and the 2nd respondent is entitled for a sum of Rs.2,00,000/-.

3. Aggrieved by the Award dated, 01.02.2008 passed by the Motor Accidents Claims Tribunal, the instant appeal has been filed by the Appellant Transport Corporation.

4. Heard, Mr.V.Ramesh, learned Counsel for the Appellant and Mr.K.Kuppusamy, learned Counsel for the respondents.

5. According to the learned Counsel for the Appellant, the primary ground for challenge in the instant appeal is that the Tribunal has applied a wrong multiplier and the compensation awarded under the heads of loss of income, reimbursement of medical bills, funeral expenses, loss of love and affection are not in accordance with the settled principles of law.

6. According to the learned Counsel for the Appellant, the Tribunal has deducted only one-third towards expenses of the deceased, whereas being a bachelor, the Tribunal ought to have deducted 50% of his income towards his expenses.

7. According to him, due to the wrong deduction, the assessment of compensation in favour of the respondents by the Tribunal is erroneous. सत्यमेव जयते

8. Per Contra, learned Counsel for the respondents would submit that the Tribunal has not awarded any compensation towards the loss of future earnings and the compensation awarded towards the loss of love and affection is also less which is not in accordance with the settled principles of law.

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

(a) The Appellant Transport Corporation has not disputed

its liability, but has only disputed quantum of compensation assessed by the Tribunal.

(b) The deceased being a bachelor, the Tribunal ought to have deducted 50% towards the expenses as per the decision of the Hon'ble Supreme Court in the case of Sarla verma and others Vs Delhi Transport Corporation and another reported in 2009 ACJ 1298., but as rightly contended by the learned Counsel for the respondents, the Tribunal has not awarded any compensation towards loss of future prospects and has awarded only a sum of Rs.10,000/- towards the loss of love and affection.

10. Being a first year BBA student, the Tribunal ought to have awarded loss of future prospects, which was not granted in the instant case. Even though the Tribunal has applied 15 multiplier instead of 18 multipliers, which is the correct multiplier to be applied as per the judgment of the Hon'ble Supreme Court in the case of Sarla verma and others Vs Delhi Transport Corporation and another reported in 2009 ACJ 1298. Since the respondents were not adequately compensated under the heads of loss of future prospects and loss of love and affection, this Court is of the considered view, that the total compensation of Rs.4,51,000/- awarded to the respondents is a just and reasonable compensation.

11. In the light of the above observations, this Court is of the considered view that there is no merit in the instant appeal.

12. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

13. The Appellant Transport Corporation is directed to deposit the Award amount along with interest at the rate of 7.5% per annum awarded by the tribunal from the date of petition till the date of realisation to the credit of MCOP.No.1987 of 2004, if not already deposited. On such deposit being made, the respondents are permitted to withdraw the same as per the apportionment made by the tribunal on making an appropriate application.

सत्यमेव जयते
Sd/-

Assistant Registrar (CS-IV)

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Sub Assistant Registrar

arb/msr
To

1. Additional District Judge,
Motor Accidents Claims Tribunal,
Fast Track Court-II,
Salem.

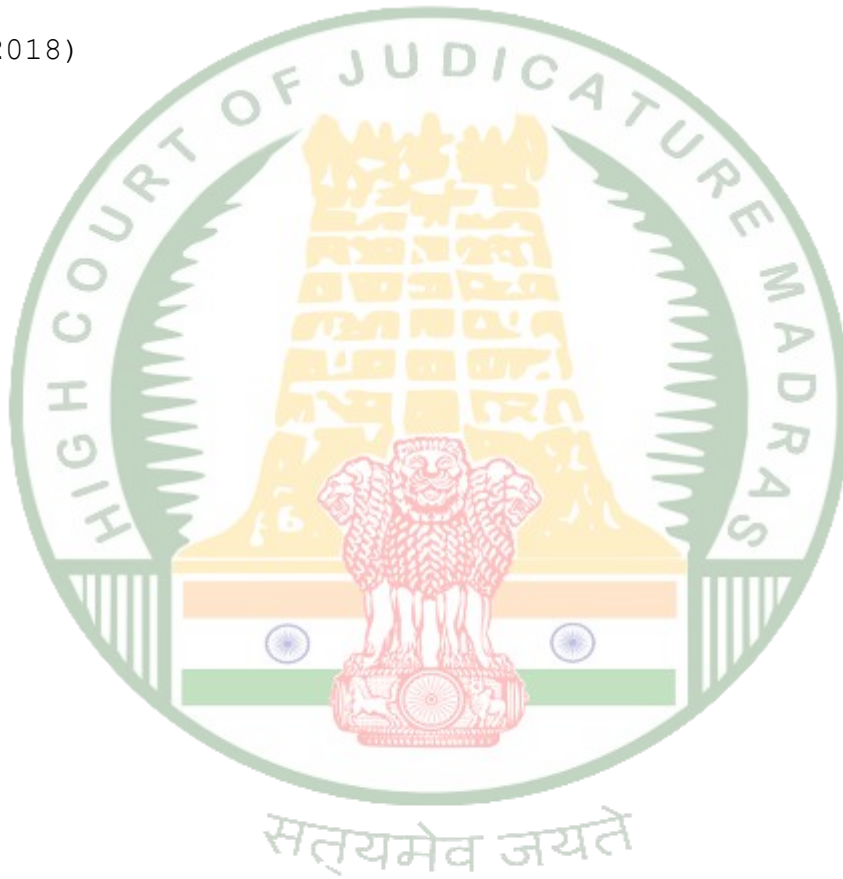
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The Section Officer
VR Section,
High Court, Madras.

+1cc to Mr.K.Kuppusamy, Advocate, S.R.No. 59557

C.M.A.No.3244 of 2008

VGI (CO)
GN(28/09/2018)



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