

IN THE JUDICATE OF MADRAS HIGH COURT

DATE : 22.01.2018

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THE HON'BLE MR.JUSTICE R.SUBBIAH

and

THE HON'BLE MR.JUSTICE T.RAVINDRAN

C.M.A.No.3657 of 2013

and

M.P.No.1 of 2013

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Villupuram.

.... Appellant /Respondent

Vs.

1.Sathya

2.Minor Daya

3.Minor Sudir

4.Chinnammal

5.Venkatachalam

.... Respondents/Petitioner

(Minors R2 & R3 are rep. by their mother
and natural guardian Sathya-1st respondent)

Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act 1988 against the order and decree dated 25.02.2013 in M.C.O.P.No.413 of 2012 passed by the Motor Accident Claims Tribunal (III Additional District Judge) at Kallakurichi.

For Appellant : Mr.S.Sairaman

For Respondents : No appearance

JUDGMENT

(Judgment of the Court was delivered by R.SUBBIAH, J.,)

Questioning the quantum of compensation awarded by the Motor Accidents Claims Tribunal (III Additional District Judge) at Kallakurichi, in and by award dated 25.02.2013 in M.C.O.P.No.413 of 2012, the Transport Corporation has filed the present appeal.

2.The respondents 1 to 5 herein are the claimants before the Tribunal and they are wife, minor sons and parents of the deceased Balu who died in an accident that had occurred on 20.07.2010 involving the bus bearing Reg.No.TN-32-N-3231 belonging to the appellant-Transport Corporation.

3. Since the present appeal has been filed challenging only the quantum of compensation awarded by the Tribunal, it is not necessary for this Court to deal with the other aspects of the award passed by the Tribunal.

4. So far as the quantum of compensation, it is the case of the claimants before the Tribunal that the deceased Balu was working as Field Supervisor at Surya Seeds, Katukottai, Attur Taluk, and earning a sum of Rs.15,000/- per month as salary. Based on the said monthly income of the deceased, the claimants have made a claim for a sum of Rs.20 lakhs as total compensation. As against the claim of Rs.20 lakhs, the Tribunal has awarded a sum of Rs.15,60,000/- being made up of Rs.15,30,000/- for loss of income, Rs.10,000/- for loss of love and affection, Rs.10,000/- for loss of consortium to the 1st claimant/wife and a sum of Rs.10,000/- for funeral expenses. Aggrieved over the same, the present appeal has been filed by the Transport Corporation.

5. The learned counsel for the appellant/Transport Corporation has submitted that the quantum of compensation awarded by the Tribunal is on the higher side and proper reduction has to be made in the compensation amount.

6. Keeping the submissions made by the learned counsel for the appellant/Transport Corporation, We have carefully gone through the entire materials available on records.

7. From a perusal of the materials available on record, We find that before the Tribunal in order to prove the income earned by the deceased, on the side of the claimants, owner of the Surya Seeds, Katukottai, Attur Taluk viz., one Uthayasuriyan was examined as P.W.3 and he had categorically stated in his evidence that the deceased was working as a Supervisor in his company and he was paying him a sum of Rs.12,000/- per month and Rs.100/- as daily batta. Further, salary certificate issued by P.W.3 was also marked as Ex.P.7. But, inspite of the evidence of P.W.3, the Tribunal has fixed only a sum of Rs.10,000/- as monthly income of the deceased. Considering the present day cost of living, the sum of Rs.10,000/- fixed by the Tribunal as monthly income of the deceased cannot be said to be on the higher side at any stretch of imagination. The Tribunal, by fixing a sum of Rs.10,000/- as month income, by applying multiplier 17 and by deducting 1/4th amount towards personal expenses considering the number of claimants, arrived at a sum of Rs.15,30,000/- as loss of income. That apart, the Tribunal has awarded only a nominal amount of Rs.10,000/- each under the heads of loss of love and affection, loss of consortium to the 1st claimant/wife and for funeral expenses. Considering the facts and circumstances of the present case, the total compensation amount of Rs.15,60,000/- awarded by the Tribunal cannot be said to be excessive. Further, considering the facts that the minor children have lost their father at their tender age, the total compensation amount awarded by the Tribunal needs

no interference. Under such circumstances, absolutely We do not find any merit in the appeal and the same is liable to be dismissed.

8. In fine, the appeal is dismissed confirming the award dated 25.02.2013 in M.C.O.P.No.413 of 2012 passed by the Motor Accidents Claims Tribunal (III Additional District Judge), Kallakurichi. The appellant/Transport Corporation is directed to deposit the entire compensation amount as awarded by the Tribunal, after deducting the amount if any 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 claimants 1, 4 & 5 are entitled to withdraw their share amounts awarded by the Tribunal with accrued interest by making necessary application before the Tribunal. The share amount of the minor claimants (respondents 2 & 3 herein) shall be deposited in a fixed deposit in a national bank till they attain majority and their mother/1st claimant is permitted to withdraw the interest accrued thereon once in every three months.

Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

ssv

To

The Motor Accident Claims Tribunal,
(III Additional District Judge)
at Kallakurichi.

Copy To

The Record Keeper,
VR Section, High Court, Madras.

+1cc to Mr.S.Saravanan, Advocate SR.No.4546

C.M.A.No.3657 of 2013
and
M.P.No.1 of 2013

RJ(CO)
GN(01/03/2018)