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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2683 of 2005

and

C.M.P.No.13939 of 2005

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

... Appellant/1st Respondent

* Cause title accepted vide order
dated 09.08.2005 in CMP.No.12306 of 2005
in CMA.No.2683 of 2005

Vs.

1.Davamani

2.Mumtha

3.Minor Ajmma

4.Minor Abdul Khader

...Respondents

(Minors R3 & R4 are rep.by

Their Mother and Next Friend

the 2nd Respondent)

(R2 is unnecessary party hence given up)

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 05.08.2003 made in
M.C.O.P.No.419/1999 on the file of the Motor Accident Claims
Tribunal (Principal Sub-Court, Tindivanam).

For Appellant : Mr.P.Jagadeeswaran

For Respondents : Died (R1 & R2)

JUDGMENT

The Appellant-Transport Corporation has come up with this
appeal, challenging the quantum of compensation awarded by the
Motor Accident Claims Tribunal, Principal Sub Court, Tindivanam,
(for brevity, "the Tribunal") vide judgement and decree dated
05.08.2003 in M.C.O.P.No.419/1999, wherein and whereby, the
Tribunal awarded compensation for the death of one Raja



Ravichandran in an accident that had occurred on 15.07.1995.

2. The brief facts, are as follows:

On 15.07.1995, at about 19.30 hours, while the deceased was walking extremely on the left side of Ulundurpet-Vridhachalam Main Road, at Kulakarai, the bus bearing Registration No.TN 32 N 0446, belonging to the appellant Transport Corporation, came in a rash and negligent manner and dashed against him, as a result of which, he succumbed to the grievous injuries. Hence, the mother, father and sister of the deceased filed a claim petition seeking compensation of Rs.3,00,000/-. During the pendency of the claim petition in MCOP.No.419/1999, the father of the deceased died and the sister of the deceased got married and hence, their names were deleted; and the second wife of the deceased and their children were brought on record as the respondents 2 to 4. It was also brought to the notice of the Tribunal that the first wife of the deceased along with her children already preferred MCOP.No.188/1996 seeking compensation of Rs.4,00,000/-. Thus, the Tribunal tried both the petitions jointly and awarded a total sum of Rs.7,00,000/- along with interest at 9%p.a. from the date of petition, in which, the claimants 1 to 3 in MCOP.No.188/1996, were entitled to receive the compensation of Rs.4,50,000/- and the first claimant/mother and the children through the second wife/respondents 3 and 4 in MCOP.No.419/1999, were entitled to receive the compensation of Rs.2,50,000/-. Aggrieved against the quantum of compensation determined in MCOP.No.419/1999, the appellant -Transport Corporation has preferred this appeal.

3.The learned counsel for the appellant -Transport Corporation has questioned only the quantum of compensation awarded by the Tribunal. According to him, in the absence of any proof with regard to the age and income of the deceased, the Tribunal erred in fixing the monthly income of the deceased at Rs.1440/- and accordingly, computed the loss of income at Rs.1,84,320/- by adopting the multiplier of 16, which is excessive and exorbitant. Hence, the compensation so awarded needs to be modified.

4.Heard the learned counsel for the appellant and perused the records. The appellant has not taken any steps to serve notice on the other side, even at this length of time. However, considering the paucity of time, this Court is inclined to proceed with the matter on merits.

5.The claimants, in their claim petition in MCOP.No.419/99 stated that the deceased was aged about 33 years and was earning a sum of Rs.5,000/- per month by working as a school teacher. However, no document was produced to prove the age and income of



the deceased. Though the doctor, who conducted post mortem, opined that the deceased was aged about 38 years at the time of accident, the Tribunal placing reliance on Ex.P3-salary certificate of the deceased during July 1995, wherein, the date of birth of the deceased was mentioned as 05.01.1959, has taken the age of the deceased as 36 years and adopted the multiplier of 16, as per II Schedule of the Act. Further, the Tribunal has taken the monthly income of the deceased at Rs.1,440/-, arrived at the annual income at Rs.17,280/- and after deducting 1/3rd towards personal expenses, computed the compensation under the head "loss of income" at Rs.1,84,320/-. Thereafter, the Tribunal, taking note of the period of service to be rendered by the deceased i.e., 22 years, has determined the loss of future earnings at Rs.11,88,000/-, however, awarded only a sum of Rs.5,00,000/- under this head. That apart, the Tribunal has awarded Rs.5000/- towards loss of consortium to the first wife, Rs.2,000/- each towards loss of love and affection to the four children and Rs.2,680/- towards loss of love and affection to the mother of the deceased. Thus, the Tribunal has quantified the total compensation at Rs.7,00,000/- payable by the appellant Transport Corporation to all the legal heirs, i.e., mother (Rs.50,000/-), first wife (Rs.2,50,000/-) and four children (Rs.1,00,000/- each). The claim petition was dismissed as against the second wife of the deceased.

6.This Court is of the opinion that the compensation so awarded by the Tribunal is based on the oral and documentary evidence adduced by the parties and the same is fair, just and reasonable and hence, the same requires no interference.

7.In the result, this Civil Miscellaneous Appeal is dismissed. The appellant-Transport Corporation is directed to deposit the entire compensation amount as awarded by the Tribunal, with interest and costs, after deducting the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgement. On such deposit being made, the Tribunal shall transfer the respective shares as apportioned, to the Savings Bank Account of the claimants, through RTGS, within a period of one week. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal
Principal Sub-Court
Tindivanam.

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

C.M.A.No.2683 of 2005

SPD (CO)
CS/20/11/2019