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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

C.M.A.No.716 of 2006  
& C.M.P.No.2934 of 2006

Metropolitan Transport Corporation  
(Chennai Division - I) Ltd.,  
Rep. by its Managing Director,  
Chennai - 2

..Appellant / Respondent

..VS..

1. Vasantha
2. Minor. Balu
3. Minor. Chitra
4. Loganayagi

(R-2 & R-3 are rep. by mother and  
Natural Friend, Vasantha, R-1)

..Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 24.12.2003 made in MCOP No.1522 of 2000 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.

For Appellant : Mr. S.V.Vasanthakumar

For Respondents : No Appearance.

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#### J U D G M E N T

As against the claim made for a sum of Rs.6,25,000/-, there is an award for a sum of Rs.3,85,000/-. Challenging the quantum of compensation awarded as disproportionate, the Transport Corporation has filed this Appeal.

2. The legal representatives of the deceased Ganesan in the capacity as widow (Vasantha), son (Minor.Balu) and daughter (Minor. Chithra) have filed the claim petition. The Tribunal has quantified the compensation with the following breakup details:-



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|                            |   |                |
|----------------------------|---|----------------|
| Loss of dependency         | - | Rs.3,40,000.00 |
| Funeral expenses           | - | Rs. 5,000.00   |
| Shock                      | - | Rs. 10,000.00  |
| Loss of consortium to wife | - | Rs. 30,000.00  |
|                            |   | -----          |
|                            |   | Rs.3,85,000.00 |
|                            |   | -----          |

3. It is the case of the claimants / respondents 1 to 3 herein that when the deceased was trying to get into the bus, the driver started the bus without noticing the deceased and due to the said impact, the deceased fell down from the bus, sustained injuries and died on the spot.

3.1. Whereas, it is the case of the appellant / Transport Corporation that, while the deceased was trying to get down from the moving bus, he came under the wheels and died on the spot.

4. The Tribunal, upon considering Ex.P-2-post mortem report, came to the conclusion that the deceased was not under intoxication, by disbelieving the evidence of eye-witness to the accident and ultimately, accepted the case as projected by the claimants.

5. This finding does not require any interference as it is based on oral and documentary evidence adduced.

6. So far as the quantum of compensation is concerned, fixing the monthly income at Rs.2,500/-, the annual income at Rs.30,000/- and deducting 1/3<sup>rd</sup> towards the personal expenses and adopting the multiplier of '17', the loss of dependency has been calculated at Rs.3,40,000/-. Awarding a sum of Rs.5,000/- towards the funeral expenses, Rs.10,000/- towards shock, Rs.30,000/- towards consortium, the total compensation has been quantified at Rs.3,85,000/-. As against which, this Appeal is preferred by the Transport Corporation.

7. It is relevant to point out that the accident was of the year 2003 and when there are three claimants, i.e., two children to be maintained along with the wife, it is unexpected of the deceased to spend 1/3<sup>rd</sup> towards the personal expenses, if his income is taken only at Rs.2,500/-. With that meager income, nobody can afford to spend 1/3<sup>rd</sup> towards the personal expenses. Hence viewed from this angle, the compensation awarded is said to be less and not more.

8. It is also relevant to point out that the future prospective increase in income has not been considered. Further, for the minor children, no amount was awarded towards loss of love and affection. Under the given set of



circumstances, this Court is of the opinion that the amount awarded by the Claims Tribunal is not excessive. The grant of compensation has been performed by the Tribunal, keeping in mind the constitutional philosophy of socio-economic justice of equality of gender and the dignity of the deceased.

9. Therefore, the Appeal has no merits and thus, the same is dismissed. No costs. Consequently, the connected CMP is closed.

10. The Transport Corporation shall deposit the entire compensation amount, as awarded by the Claims Tribunal, along with interests and costs, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. The ratio of apportionment shall be as ordered by the Claims Tribunal. The minor claimants should have attained majority as on now. Therefore, on such petition being taken out to declare the minor claimants as majors, the claims Tribunal shall pay the compensation to the RTGS Account of the claimants and if not, that share amount shall be deposited in a Nationalised Bank and interest accrued thereon shall be withdrawn by the guardian of the minor claimants. In respect of other claimants (R-1 & R-4) also, the same procedure shall be followed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

srk

To

1. Motor Accident Claims Tribunal,  
VI Small Causes Court, Chennai.
2. The Section Officer,  
V.R.Section, Madras High Court, Chennai 104

+1 cc to Mr.S.V.Vasanthakumar, Advocate, S.R.No.47431

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MG(CO)  
SSM(03/10/2019).