

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3319 of 2008

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

... Appellant/ Respondent

Vs.

1. J.Sumathi
2. Minor.Sasirekha
3. Minor. Jayakumar
(Minors are represented by the mother/ first respondent)
4. Kaveri

... Respondents / Petitioners

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 20.11.2007 made in M.C.O.P.No.3427 of 2003 on the file of the Motor Accidents Claims Tribunal, V Court Small Causes Chennai.

For Appellant : Mr.S.V.Vasanthakumar

For R1 to R4 : Mr.S.Parthasarathy

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal, the appellant /Transport Corporation has preferred this Civil Miscellaneous Appeal.

2.The case in brief, is as follows:

On the fateful day, i.e., on 03.12.2002, at about 20.45 hours, one Jagannathan was waiting for the bus at Vadapalani bus stop, a bus bearing Registration No.TN21 N 0461 belonging to the appellant Transport Corporation, came in a rash and negligent manner and dashed against the said Jagannathan and caused him to fatal injuries. Immediately, he was taken to the Government General Hospital, however he died on the way. Hence, his legal heirs filed a claim petition seeking compensation of Rs.7,00,000/-. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation

of Rs.4,41,000/- with interest at the rate of 7.5% per annum from the date of petition. Challenging the same, the appellant/Transport Corporation is before this Court with the present appeal.

3.The learned counsel for the appellant/Transport Corporation has disputed only the quantum of compensation. According to him, the compensation awarded by the Tribunal is excessive and exorbitant and hence, the same needs to be reduced.

4.Per contra, the learned counsel for the respondents/claimants submitted that the Tribunal after evaluating the oral and documentary evidence, has awarded a just compensation, which warrants no interference in the hands of this Court.

5.Heard both sides and perused the records.

6.Since the appellant Transport Corporation has not disputed the manner in which the accident took place, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus, need not be interfered with by this Court.

7.As regards the quantum of compensation, P.W.1/ wife of the deceased, deposed in her evidence that the deceased was aged about 30 years and he was earning a sum of Rs.10,000/- per month as Video Cameraman. However, no proof was produced to substantiate the same. In the absence of any documentary evidence, the Tribunal has taken the monthly income of the deceased as Rs.3,000/- (Rs.100/- per day), deducted 1/3rd towards personal expenses, arrived at the annual income at Rs.24,000/-, adopted the multiplier of 17 and quantified the compensation under the head "loss of income" at Rs.4,08,000/-. The Tribunal has correctly analyzed the income of the deceased, adopted the correct multiplier and arrived at the said sum towards the contribution of the deceased to his family and hence, the same does not call for any interference by this Court.

8.That apart, the Tribunal has awarded Rs.2,000/- towards transportation, Rs.1,000/- towards damage to clothes and articles, Rs.5,000/- towards funeral expenses, Rs.10,000/- towards loss of consortium, Rs.5,000/- towards loss of estate, Rs.5,000/- towards mental agony, Rs.5,000/- towards loss of expectation of life, which appear to be fair, just and reasonable and the same need not be interfered with, having regard to the facts and circumstances of the case. There is no

modification with regard to the rate of interest and the apportionment made by the Tribunal.

9.Thus, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant Transport Company is directed to deposit the entire award amount along with interest and costs, less the amount already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the shares of the amount lying in the deposit to the respective savings bank account of the respondents 1 and 4 through RTGS within a period of one week thereafter. In respect of the minor respondents 2 and 3, they should have attained majority as of now and hence, the Tribunal shall transfer the respective shares to their bank accounts, through RTGS, on filing proper application.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal
The V Court of Small Causes, Chennai.

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

+1cc to Mr.S.Parthasarathy , Advocate SR.No. 63317

+1cc to Mr.S.V.Vasanthakumar , Advocate SR.No. 63729

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pvs

A.SK(02/03/2020)

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