

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.1325 of 2009
and
Cros.Obj.No.57 of 2012

C.M.A.No.1325 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
No. 37, Mettupalayam Road,
Coimbatore.Appellant

...Vs...

1. Gnanasekaran
2. Minor Sarumathi
D/o.Gnanasekaran
3. Minor Sanjula
D/o.Gnanasekaran
4. Minor Ajith Viswanath
S/o.Gnanasekaran

(R2 to R4 are minors represented by guardian
father Gnanasekarn)

5. Pushparaj

6. Malligarjuna Reddy (Given Up) ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988 against the decree and Judgment
dated 26.11.2008 passed in MCOP.No.498 of 2007 on the file of
the Motor Accident Claims Tribunal / Additional District Court
(Fast Track Court No. 4), Coimbatore at Tiruppur.

For Appellant : Ms.S.Ponmozhi
for Mr.N.Anand

For Respondents : Mr.Ma.Pa.Thangavelu
for R1 to R4
No appearance for R5 and R6

Cros.Obj.No.57 of 2012

1. Gnanasekarn
2. Minor Sarumathi
3. Minor Sanjula
4. Minor Ajith Viswanath

(The minors represented by guardian
father Gnanasekarn)

... Cross Objectors

...Vs...

1. The Managing Director,
Tamil Nadu State Transport Corporation Limited,
No. 37, Mettupalayam Road,
Coimbatore.
2. Pushparaj
3. Malligarjuna Reddy

...Respondents

Prayer: Cross Objection filed under Order 41 Rule 22 of the Code of Civil Procedure, against the decree and Judgment dated 26.11.2008 passed in MCOP.OP.No.498 of 2007 on the file of the Motor Accident Claims Tribunal / Additional District Court (Fast Track Court No. 4), Coimbatore at Tiruppur.

For Cross objectors : Mr.Ma.Pa.Thangavelu

For Respondents : Ms.S.Ponmozhi
for Mr.N.Anand for R1
No appearance for R2 and R3

JUDGMENT

The Tamil Nadu State Transport Corporation Limited represented by its Managing Director, Coimbatore Division, the third respondent in MCOP.No.498 of 2007 on the file of the Motor Accidents Claims Tribunal, I Additional District Court (Fast Track Court No. 4), Coimbatore at Tiruppur has filed the present appeal questioning the quantum of compensation awarded by the Tribunal. The claimants in the said MCOP filed the Cross Objection. No.57 of 2012 seeking enhancement of compensation awarded by the Tribunal for the death of G.Sudha, the wife of the first claimant and mother of claimants 2 to 4 and in a road accident that took place on 07.08.2006.

2. The parties are referred to as per their ranking before the Tribunal and at appropriate places their ranks in the present Civil Miscellaneous Appeal would also be indicated.

3. The case of the claimants is that on 07.08.2006, at about 20.00 hours, the deceased was riding her motorcycle bearing Registration No. TN 39 M 4336 on Tiruppur - Avinasi main road. When she was nearing Ganga Hospital, a speeding motorcycle bearing Registration No. KA 02 EF 3238 and a speeding bus bearing Registration No. TN 33 N 1406 belonging to the Tamil Nadu State Transport Corporation hit the motorcycle ridden by the deceased, as a result of which, she sustained injuries all over her body. She was immediately rushed to the nearby Hospital. However, she succumbed to injuries in the Hospital. According to the claimants, the accident took place due to the rash and negligent driving of the drivers of both the motorcycle bearing Registration No. KA 02 EF 3238 and the bus bearing Registration No. TN 33 N 1406 and therefore, the owners of the said vehicles as well as their Insurance Companies are liable to pay compensation to them.

4. The respondents 5 and 6 remained absent before the Tribunal and therefore, they were set ex-parte. The Tamil Nadu State Transport Corporation Limited contested the claim petition. The learned Motor Accidents Claims Tribunal / I Additional District Judge (Fast Track Court No. 4), Coimbatore at Tiruppur after analysing the evidence on record, awarded a compensation of Rs.4,17,500/- together with interest at the rate of 7.5% per annum to the claimants.

5. Ms.S.Ponmozhi, learned counsel appearing for the appellant / Tamil Nadu State Transport Corporation contended that the Tribunal had awarded a sum of Rs.4,17,500/- to the claimants even without considering the fact that the deceased was only a house wife and was not earning any amount on the date of the accident.

6. Mr.Ma.Pa.Thangavelu, learned counsel appearing for the claimants / respondents 1 to 4 contended that the service of a house wife cannot be underestimated and that the household work which is done by a woman as a mother in India should be taken into account while valuing the loss suffered by the children, because their mother died in an accident. He also relied on the decision in Arun Kumar Agrawal and another vs. National Insurance Company and others reported in 2010 (2) TN MAC 129 (SC) and contended that the monthly income of the deceased should be fixed at Rs.5,000/- per month.

7. In the decision in Arun Kumar Agrawal and another vs. National Insurance Company and others reported in 2010

(2) TN MAC 129 (SC) (cited supra), it is found that the deceased was earning a sum of Rs.50,000/- per annum by doing painting and handicraft works and in the circumstances, the monthly income of the deceased was fixed at Rs.5,000/-. In the instant case, the deceased was a house wife and definitely her service to the family should be taken into account. Since the accident took place in the year 2006, the monthly income of the deceased is fixed at Rs.4,500/-. As per the decision laid down in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601 (SC), 40% should be added towards future prospects of the deceased which would come to Rs.6,300/-. Since there are four persons depending on the income of deceased, 1/4 is deducted towards the personal expenses of the deceased and thus a sum of Rs.4,725/- is taken up for calculating loss of dependency. As the age of the deceased was 31 years on the date of the accident, the proper multiplier to be adopted in the instant case is 16 as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

Loss of dependency
 = Rs.4,725/- x 12 x 16
 = Rs.9,07,200/-

8. Apart from the above said amount, the appellants / claimants are entitled to a sum of Rs.15,000/-, Rs.40,000/- and Rs.15,000/- towards "loss of estate", "loss of love and affection" and "funeral expenses" respectively. The award passed under various heads is extracted hereunder:

S.No.	Head	Amount granted
1.	Loss of income	Rs.9,07,200/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.9,77,200/-

Thus the quantum of compensation awarded by the Tribunal is enhanced from Rs.4,17,500/- to Rs.9,77,200/- which would carry interest at the rate of 7.5% per annum.

9. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. The Cross Objection is allowed. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.4,17,500/- to Rs.9,77,200/-

(iii) The respondents 1 to 4 / claimants are directed to pay the Court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of the required Court fee.

(iv) The appellant, Tamil Nadu State Transport Corporation Limited is directed to deposit the entire compensation awarded by this court i.e., Rs.9,77,200/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.498 of 2007 on the file of the Motor Accidents Claims Tribunal / Additional District Court (Fast Track Court No. 4), Coimbatore at Tiruppur within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the respondents 1 to 4 / claimants are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The apportionment made by the Tribunal shall be kept intact.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mbi
To

The Motor Accident Claims Tribunal
The Additional District Court,
Fast Track Court No. 4,
Coimbatore.

CC: The Section Officer,
VR Section, High Court, Madras.

+1cc to M/s.Ma.P.Thangavel, Advocate in SR.79046

C.M.A.No.1325 of 2009
and
Cros.Obj.No.57 of 2012

RP (CO)
CB(03/01/2020)

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