

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.08.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1267 of 2013
and
M.P.No.1 of 2013 and C.M.P.No.6260 of 2017

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

...Appellant /Respondent
Vs

1.M.Amulu

2.Minor Kaliappan

(Rep. by his mother and
Natural guardian M.Amulu)

..Respondents/Petitioners

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 12.10.2012 made in MCOP No.262 of 2011 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Tiruvallur, Poonamallee.

For Appellant : Mr.G.Palani

For R1 & R2 : Mr.K.Varadha Kamaraj

JUDGMENT

This appeal is preferred by the Transport Corporation against the award of a sum of Rs.7,93,000/- towards compensation to the respondents 1 and 2 / claimants, due to the death of the husband of the first respondent / father of the second respondent by name, K.Muthu, in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 13.01.2011 at 21.30 hours, when the deceased K.Muthu was riding his bicycle on Madras to Bangalore High Road and he was nearing Sakthi Mariamman Engineering College, opposite to Punjab National Bank, the MTC Bus bearing Reg.No.TN-23-N-2013 came in a rash and negligent manner and dashed against the bicycle, as a result of which the deceased sustained multiple grievous injuries and died on the spot. Hence, the legal heirs of the deceased filed a claim petition claiming a compensation of Rs.10,00,000/-. On

consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.7,93,000/- with interest at the rate of 7.5% per annum from the date of petition. The said amount was directed to be deposited by the Transport corporation within a period of one month, failing which, it should carry interest at 9% p.a. till the date of deposit.

3.Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant/Transport Corporation has disputed only the quantum of compensation awarded by the Tribunal. According to him, in the absence of any document with regard to the age of the deceased, the multiplier of 16 adopted by the Tribunal is on the higher side. Further, interest of 9% awarded is also excessive and exorbitant. Hence, the learned counsel sought to reduce the quantum of compensation awarded by the Tribunal.

5.The learned counsel for the respondents submitted that the Tribunal has properly considered the evidence and materials available on record and has arrived at the compensation, which is just, fair and reasonable and hence the same need not be interfered with by this Court.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.Since the finding of the Tribunal on negligence that the accident had occurred only due to the rash and negligent act on the part of the driver of the bus, is unassailable, the same is hereby confirmed. As such, there is no dispute with regard to the liability of the Transport Corporation to pay compensation to the respondents/claimants.

8.With regard to the quantum of compensation, the claimants claimed that the deceased was working as a Sweeper in Hyundai Car Company, Irunkattukottai and he was getting monthly income of Rs.9,000/-. Considering the evidence available on record, the Tribunal came to the conclusion that the deceased would have earned Rs.6,000/- per month as casual labourer and deducted 1/3rd towards his personal expenses and adopted the multiplier of 16 and arrived at the contribution of the deceased to the family at Rs.7,68,000/- (Rs.4,000/- X 12 X 16). On examining the evidence and materials placed by the claimants, the Tribunal has rightly fixed the monthly income of the deceased and adopted the correct

multiplier and awarded the compensation under the head "loss of income" and the same need not be interfered with by this Court. The Tribunal has also awarded a sum of Rs.10,000/- towards funeral expenses, Rs.10,000/- towards loss of love and affection and Rs.5,000/- towards loss of consortium, which are just and very reasonable and hence, the same warrant no interference at the hands of this Court.

9.Thus, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal stands dismissed. No costs. The appellant-Transport Corporation is directed to deposit the entire compensation amount, with interest 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. On such deposit being made, the Tribunal shall transfer the award amount as apportioned by it, after deducting the amount if any already withdrawn, to the bank account of the first respondent/claimant through RTGS within a period of one week. In respect of the second respondent/claimant (minor), he should have attained majority as of now and hence, the Tribunal shall transfer the award amount, as apportioned by it, to his bank account, on making proper application. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gbi/rk
To

1.The III Additional District Court,
Motor Accident Claims Tribunal,
Tiruvallur,
Poonamallee.

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

+1 cc to Mr.G.Palani Advocate sr70307

C.M.A.No.1267 of 2013

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