

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1118 of 2012

1. Lakshmi
2. Sivasankari @ Sankari (minor) (since died)
3. Parameswari (minor)
4. Kanniyappan
5. Narayani
(3rd minor petitioner rep. by her
father & N.F. the 4th appellant) .. Appellants/Petitioner

Vs.

M/s. State Express Transport Corporation Ltd.,
rep.by its Managing Director,
Pallavan Salai, Chennai - 600 002. .. Respondent/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of
the Motor Vehicles Act, 1988 against the Judgment and Decree
dated 21.07.2011 made in MACT.O.P.No.3129 of 2007 on the file of
the Chief Small Causes Court (Motor Accident Claims Tribunal)
Chennai.

For Appellant : Mr.R.Kalai Arasan

For Respondent : Mr.S.V.Vasanthakumar

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the
Judgment and Decree dated 21.07.2011 made in MACT.O.P.No.3129 of
2007 on the file of the Chief Small Causes Court (Motor
Accident Claims Tribunal) Chennai.

2. The wife, parents and minor sisters of the deceased Gopi
have filed this appeal claiming enhancement of compensation
awarded by the Tribunal, on being not satisfied with the award
passed in M.A.C.T.O.P.No.3129 of 2007.

3. The appellants herein have preferred the claim petition
before the Tribunal alleging that on 07.07.2007 at about 0.45

hours, while the deceased was traveling as a passenger in bus TN-01-N-6576 from Chennai to Pondicherry, the bus which was proceeding towards Maraimalai Adigal Salai, Pondicherry, stopped in the New Bus Stand and while the deceased was alighting from the bus, the driver of the bus in a rash and negligent manner started the bus, due to which the deceased fell down from the front entrance and the left rear wheel of the bus ran over him and the deceased died on the spot.

4. Before the Tribunal, the claimants examined P.W.1 to P.W.3 on their side and Exhibits P1 to P14 were marked. On behalf of the respondents, no oral and documentary evidences were marked.

5. It is seen from the records that the claimants are the wife, minor sisters and parents of the deceased. Pending Trial, the second appellant/minor sister died and the same is recorded.

6. The Tribunal based upon Ex.P1- F.I.R and oral evidence of P.W.2 Viji@ Vijayakumar as eye-witness to the occurrence came to the conclusion that the accident has taken place due to rash and negligent driving of the driver of the Government bus. Accordingly, fixed the responsibility on the driver of the Transport Corporation.

7. On perusal of the oral and documentary evidence, it is seen that the liability is on the part of the Government bus driver. Hence, the finding of the Tribunal that the accident had taken place due to rash and negligent driving by the driver of the respondent is hereby confirmed.

8. On the point of the quantum, both the parties are heard.

9. It is seen from the records that based upon Exhibit P2- Post Mortem Certificate, the age of the deceased should be taken following the decision of the Hon'ble Supreme Court reported in 2009 (2) TN MAC 1 SC [Sarala Verma and Others Vs. Delhi Transport Corporation and another] and submitted that the multiplier should be '17' was adopted and as evidence of the P.W.3 - T.Siva Kumar co-employer of the deceased was working as painter, the date of the accident the monthly income of the deceased was fixed at Rs.6500/- and for future prospects, 40% has to be added to the income i.e, Rs.2600/- [6500x40%]. Accordingly, the income is arrived at Rs.9,100/- [Rs.6,500 + 2600]. There are three dependents and therefore 1/4 of this income is deducted towards the personal expenses i.e., Rs.6825/- [Rs.9,100x1/4] After adopting the multiplier of '17' with the above income, a sum of Rs.13,92,300/-[Rs.6825x12x17] is arrived towards loss of income.

10. The first appellant is entitled for a sum of Rs.40,000/- towards Loss of Consortium. Funeral Expenses is awarded at at Rs.15,000/-, Loss of estate at Rs.15,000/- and loss of Love and affection is awarded at Rs.60,000/- (each Rs.15,000/-). The break-up details of the award amount is as follows:-

Heads under which the amount is awarded	Amount awarded by the Tribunal	Amount awarded by this Court
Loss of Income	Rs.6,12,000/-	Rs.13,92,300/-
Loss of consortium	Rs.10,000/-	Rs.40,000/-
Loss of estate	--	Rs. 15,000/-
Loss of love and affection	Rs.10,000/-	Rs.60,000/-
Funeral Expenses	Rs.10,000/-	Rs.15,000/-
Total	Rs.6,42,000/-	Rs.15,22,300/-

11. The claimants are entitled to the compensation awarded by the Tribunal, as per the apportionment ordered by the Tribunal. The enhancement amount of compensation at Rs.8,80,300/- [6,42,000 - 15,22,300] shall be apportioned among the appellants / claimants as follows:-

1. Lakshmi - Rs.6,00,000/-
2. Parameswari (minor) - Rs. 80,300/-
3. Kanniyappan - Rs.1,00,000/-
4. Narayani - Rs.1,00,000/-

12. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,42,000/- is hereby enhanced to Rs.15,22,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The appellant/claimant is directed to pay necessary Court fee if any, on the enhanced compensation. The respondent/ Transport Corporation is directed to deposit the enhanced award amount along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants 1, 4 & 5 /claimants 1, 4 & 5 are permitted to withdraw the amount along with interest and costs, after adjusting the amount if any already withdrawn. The share amount of the 3rd appellant (Parameswari (minor)) shall be deposited in any one of the nationalised banks in re-investment

scheme in the name of minor appellant till she attains majority. On attaining the age of majority, they are permitted to withdraw the award amount with accrued interest, on production of age proof certificate before the Tribunal. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Chief Judge/ Motor Accident Claims Tribunal
Small Causes Court, Chennai.

Copy to : The Section Officer,
V.R. Section, High Court, Madras - 104.

+1 cc to M/s.S.V.Vasanthakumar, Advocate Sr.No. 25795
+1 cc to Mr.N.M.Muthurajan, Advocate Sr.No.26087

AKM/06.11.19/4P-5C /

C.M.A.No.1118 of 2012

सत्यमेव जयते
WEB COPY