

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:18.11.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.1490 OF 2015

AND

M.P.NO.1 OF 2015

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Vellore ... Appellant/2nd Respondent

...vs...

1. Valliyammal
2. Ganesh
3. Radhika
4. Guna 2 to 4 Respondents/Petitioners
5. C.Pandiyani ... Respondent/1st Respondent

Prayer:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 06.09.2014 made in MCOP No.297 of 2013 on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

For Appellant : Mr.K.J.Sivakumar

For R-1 to R-4 : Mr.M.R.Mukunth R.Pandian

J U D G M E N T

As against the claim made for a sum of Rs.10,00,000/-, the Tribunal has awarded a sum of Rs.11,33,000/-. Challenging the quantum of compensation awarded as disproportionate, the Transport Corporation has filed this Appeal.

2. It is the case of the claimants that on 06.07.2012 night, the deceased Ramachandran, boarded the appellant's bus bearing Registration No.TN23-N-2171 at Krishnagiri. While the bus stopped at Shoolagiri bye-pass at Udhanapalli Diversion Road and when the deceased was trying to get down from the bus, the driver moved the bus, due to which, the deceased fell down from the front exit and the rear wheel of the bus ran over his head

and he was seriously injured. Immediately, the bus was stopped at some distance and even after seeing the condition of the deceased, the driver started the bus to escape from the scene of occurrence. Later, the deceased died on the spot and the postmortem on the body of the deceased was conducted at the Government Hospital, Hosur. At the first instance, the FIR came to be registered as hit and run and later on, on the basis of the eyewitness statement and the bus ticket found in the pocket of the deceased, the Police traced out and arrested the bus driver, seized the bus and sent the bus to the Motor Vehicles Inspector for inspection. Hence, the legal representatives of the deceased Ramachandran in the capacity as Wife, Sons and daughter have filed the claim petition before the Tribunal.

3. The Tribunal, after elaborate trial, has quantified the compensation under the following breakup details:-

Loss of dependency (Rs.81,000/- x 13)	-	Rs.10,53,000.00
Transportation expenses	-	Rs. 10,000.00
Funeral expenses	-	Rs. 20,000.00
Loss of consortium to wife	-	Rs. 20,000.00
Loss of love and affection to Sons and daughter	-	Rs. 30,000.00

		Rs.11,33,000.00

4. Heard both sides.

5. The learned counsel for the appellant / Transport Corporation submitted that the Tribunal erred in fixing the total negligence on the part of the appellant's bus driver without any means; the fixation of multiplier by the Tribunal is bad in the eye of law and against the Sarla Verma's case; and in any event, the amount awarded is highly disproportionate and does not have any relevance.

6. Per contra, the learned counsel for respondents 1 to 4 / claimants submitted that the Tribunal has considered the evidence of R-5 / driver of the bus, as R.W.1, other evidence and documents adduced on the side of the claimants and has rendered findings fixing the negligence on the Transport Corporation and arrived at the total compensation at Rs.11,33,000/-, with interest at the rate of 7.5% per annum from the date of petition till the date of deposit, which do not require any interference by this Court, since the same are based on materials available on record. He further submitted that the Tribunal placing reliance on the age given in the post-mortem certificate has adopted the multiplier of 13 and has arrived at

the loss of income and hence, the contention of the appellant that the multiplier adopted by the Tribunal is incorrect is not justified.

7. This Court has considered the said submissions made by the learned counsel for both sides and perused the materials available on record meticulously.

8. A perusal of the evidence of P.W.1 would go to show that the contents of the claim petition correlates with the documents produced on the side of the claimants, viz., Exs.P-1 to P-6. P.W.2-eye witness to the accident, in his evidence, has admitted that he had not preferred any complaint to the Police and the suggestion that whether he is deposing false, was denied by him. Further, nothing was elicited in support of the appellant and against the respondents 1 to 4/claimants in the cross examination of P.W.2.

9. Further, the evidence of R.W.1/R-5 herein would go to show that, in his cross-examination, he admitted that he had not given any representation either to the Police Officer, who had laid the FIR or to the Superior Officer denying the accident. Hence, the Tribunal has drawn adverse inference against the driver of the Bus and based on Ex.P-1-FIR, evidence of P.W.2 and R.W.1, the Tribunal has held that the accident had happened due to the rash and negligent driving by R-5 and thus fastened the liability on the Transport Corporation. This finding does not require any interference as it is based on oral and documentary evidence and documents adduced.

10. So far as the quantum of compensation is concerned, the Tribunal, in the absence of any documentary proof for the income of the deceased, has taken the day's earning of the deceased at Rs.300/- and calculated the same at Rs.9,000/- per month and as per Sarla Verma's case deducted 1/4th towards the personal expenses and arrived at the annual income at Rs.81,000/-. The Tribunal has taken the age of the deceased as 49 (as per post-mortem certificate Ex.P-2), adopted the multiplier of 13 and has arrived at the loss of income at Rs.10,53,000/-. Awarding a sum of Rs.20,000/- towards loss of consortium to wife, Rs.30,000/- towards loss of love and affection to Sons and daughter and Rs.10,000/- towards transport to hospital and Rs.20,000/- towards funeral expenses, the total compensation has been quantified at Rs.11,33,000/-. This Court is of the opinion that the quantum arrived at by the Tribunal need not be interfered with, since the same was passed based on the weightage of evidence, probabilities of the case and settled principles of law.

11. Also, it is relevant to point out that the future prospective increase in income has not been considered by the Claims Tribunal. If, on that count, some amount is added, then the compensation amount arrived at by the Tribunal would be less and not more. Added to the above, the accident, in this case, had taken place in the year 2012 and the appeal is heard on merits in the year 2019. Further, there is no appeal by the claimants. Under the given set of circumstances, it may not be appropriate to reduce the quantum of compensation.

12. Therefore, the Appeal has no merits and thus, the Appeal is dismissed. No costs. Consequently, the connected MP is closed.

13. The Transport Corporation/appellant herein 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. On such deposit being made, the Claims Tribunal shall pay the compensation to the RTGS Accounts of the claimants/R-1 to R-4 herein.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. Motor Accident Claims Tribunal,
Special District Court,
Krishnagiri.

2. The Section Officer,
V.R.Section, Madras High Court,
Chennai 104.

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.95519

+1cc to Mr.M.R.Mukunth R.Pandian, Advocate, S.R.No.96349

C.M.A.No.1490 of 2015
& M.P.No.1 of 2015

LN(CO)
CS/20/11/2020