

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2019

CORAM:

THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

C.M.A.No.1595 of 2015

and

M.P.No.1 of 2015

The Managing Director
Metropolitan Transport Corporation Limited
Pallavan House, Anna Salai,
Chennai 2 Appellant/Petitioner/Respondent

Vs

1.R.Komathi
2.R.Mukesh(Minor)
3.R.Bharanika (Minor)

Minor Respondents are rep by their Mother
and next friend R.Komathi

Respondent/Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment passed in M.C.O.P.No.4514 of 2010 dated 07.11.2013 on the file of the Motor Accident Claims Tribunal, the Chief Judge, Small Causes Court, Chennai.

For Appellant : Mr.S.SivaKumar

For Respondents : No representation

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the judgment and decree made in M.C.O.P.No.4514 of 2010 dated 07.11.2013, on the file of the Motor Accident Claims Tribunal, the learned Chief Judge, Small Causes Court, Chennai. The appellant herein is the Transport Corporation aggrieved against the liability fixed by the Tribunal.

2. The brief facts leading to the claim petition is that on 20.08.2010, at about 20.00 hours, when the deceased was walking at NSC Bose road, near hotel rolex from west to east direction, at that time, a bus bearing Registration No. TN 01 N 4454 which came in the opposite direction, driven by its driver in a rash and negligent manner, hit against the deceased. As a result of which, the deceased sustained fatal

injuries and a Criminal case was also registered. Hence, the legal representatives of the deceased, viz., wife, son and daughter of the deceased, made a claim for a sum of Rs.18,00,000/- as compensation.

3. The Transport Corporation contested the claim by filing a counter statement, inter alia stating that they are not liable to pay the compensation and the driver of the bus drove the vehicle with due care and caution observing the traffic rules. It is further stated that the sum claimed as compensation under various head is excessive and without any documentary proof.

4.The Tribunal observed the contentions raised by both side by way of evidence and documents and has given a finding that the accident occurred only due to the rash and negligent driving on the part of the driver of the Transport Corporation bus and also awarded a sum of Rs.6,83,400/- as compensation under the following heads:

S.No	Head	Compensation (in.Rs.)
1.	Loss of dependency	6,08,400.00
2.	Loss of consortium	25,000.00
3.	Love and affection	25,000.00
4.	Loss of estate	10,000.00
5.	Funeral expenses	10,000.00
6.	Transportation	5,000.00
Total		6,83,400.00

5. Aggrieved over the award passed by the tribunal, the appellant/ Insurance Company has filed the present appeal.

6.In the grounds of appeal, it is contended that the finding of the Tribunal in holding that the driver of the bus drove the bus in a rash and negligent manner and was responsible for the accident by discarding the evidence of RW.1., Accident Register which was marked as Ex.P3 reveals that there is no mentioning about the hit by appellant bus. Apart from that, the sum awarded by the Tribunal at Rs.6,83,400/- as excessive one in the absence of any document and prayed for dismissal of the claim petition.

7. Heard on the side of the appellant/ Transport Corporation and perused all the materials available on record.

8.It is seen from the record that the deceased was met with an accident that occurred on 20.08.2010 and the claim made by the claimants at Rs.18,00,000/-. The deceased was aged about 46 years at the time of the accident, he was Cutting

Master cum Tailor and earning a sum of Rs.12,750/- per month. The Cash Voucher/ Ex.P9 series and Salary Certificate /Ex.P10 were marked before the Tribunal. The evidence of RW.1 and Accident Register/Ex.P3 were not considered by the Tribunal and given a finding that the driver of the bus was responsible for the said accident and fixed the liability on the part of the Transport Corporation.

9.The Tribunal after analysing the evidence and documents, fixed the income of the deceased at Rs.4,500/- per month and deducted $1/3^{\text{rd}}$ towards personal expenses and added 30% towards future prospects and by taking the monthly income of the deceased at Rs.4,500/- and adding future prospects at 30% which would workout to Rs.2,400/-, the monthly income comes to Rs.5850/- (Rs.4,500/- + Rs.1,350/-) and the annual income would be Rs.70,200/-. After deducting $1/3^{\text{rd}}$ towards personal expenses and applying the proper multiplier 13, calculated the loss of pecuniary benefits of Rs.6,08,400/- ($70,200/- \times 2/3 \times 13$), which is proper and reasonable. The sum awarded under the heads of consortium to the first claimant/ wife of the deceased and love and affection to the second and third claimants are also very much reasonable. In total, the award passed by the Tribunal under various heads are just and reasonable and hence, this court is not inclined to interfere with the award of the Tribunal.

10. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.The appellant/ Transport Corporation is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are at liberty to withdraw the entire amount as per the apportionment made by the trial court and the Tribunal is directed to transfer the deposited amount to the Savings Bank Account of the claimant, forthwith, through RTGS.

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Sd/-

Assistant Registrar (AD I)

//True Copy//

Sub Assistant Registrar

vkrr

To

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

Copy TO

The Section Officer,
V.R. Section, High Court,
Madras.

C.M.A.No.1595 of 2015
and
M.P.No.1 of 2015

MR(CO)
GN(18/02/2020)



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