

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH  
and  
THE HONOURABLE MR. JUSTICE C.SARAVANAN

C.M.A.No.177 of 2015

and

M.P.No.1 of 2015

The Managing Director,  
Tamil Nadu State Transport Corporation  
Ltd., Coimbatore Division,  
13 Mettupalayam Road, Coimbatore. ..Appellant/2<sup>nd</sup> Respondent

vs.

1.Vijayalakshmi  
2.Praveena  
3.Minor Sharmatha  
4.Minor Gokul  
5.Kaliammal  
6.Ramasamy Gounder ..Respondents/Petitioners/  
1<sup>st</sup> Respondent.

(minor respondents 3 and 4 rep. by  
their next friend and guardian/mother R1)

7. D.Sasikumar

Appeal filed under Section 173 of the Motor Vehicles Act,  
1988, against the judgment and decree dated 17.12.2011 in  
M.C.O.P.No.499 of 2009 on the file of Motor Accidents Claims  
Tribunal (Subordinate Judge), Bhavani.

For Appellant : Mr.K.J.Sivakumar

For Respondents : Mr.R.Neelakandan

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

The Transport Corporation, who was the second respondent  
before the Tribunal has come forward to challenge the award

passed in favour of the respondents/claimants who are mother, young widow and two minor children respectively. The Tribunal has fixed a sum of Rs.25,16,000/- as compensation.

2.Learned counsel appearing for the appellant would submit that only the quantum of compensation is challenged in this appeal. It is submitted that the income has been wrongly taken as Rs.24,000/- without any basis. The Tribunal therefore is wrong in fixing compensation at Rs.25,16,000/- which requires to be interfered with.

3.Heard the learned counsel appearing for the appellant. Despite service of notice and the name of the learned counsel for the respondents having been printed in the cause list, there is no representation on behalf of the respondents.

4.We are concerned with the quantum of compensation arrived at as against the awarding under different heads. The deceased was aged about 46 years at the time of accident. He left behind the mother, wife and two daughters, who were minors at the relevant point of time. Though the Tribunal has taken into consideration the monthly income at Rs.24,000/-, it has committed two errors. The first is with respect to the non-addition of future prospects. Second is with respect to the deduction. The Tribunal has deducted 1/3<sup>rd</sup> amount towards personal expenses of the deceased instead of ¼. As stated above, we are concerned with the actual compensation which the appellant is liable to pay. The Tribunal ultimately fixed a sum of Rs.25,16,000/- payable in favour of respondents 1 to 5/claimants 1 to 5. It has been apportioned between respondents 1 to 5/claimants 1 to 5 and accordingly, the first claimant, being the wife of the deceased was granted Rs.15 lakhs and the second claimant/daughter of the deceased was granted Rs.5 lakhs. Third and fourth claimants/daughter and son of the deceased and the fifth claimant/mother of the deceased were granted Rs.1,72,000/- each.

5.In such view of the matter, we do not find any error in the compensation arrived at by the Tribunal, warranting interference. Accordingly, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

6.The appellant insurance company is directed to deposit the compensation amount awarded by the Tribunal along with proportionate interest to the credit of M.C.O.P.No.499 of 2009 on the file of Motor Accidents Claims Tribunal (Subordinate Judge), Bhavani, less the amount already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants/respondents 1 to 5 are

permitted to withdraw their respective shares along with accrued interest.

mmi

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge,  
Motor Accidents Claims Tribunal  
Bhavani.

+1cc to Mr.K.J.Sivakumar, Advocate, SR.No.14032

+1cc to Mr.R.Neelakandan, Advocate, SR.No.13802

C.M.A.No.177 of 2015

Kak(10/05/2019)



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