

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2417 of 2013 and
M.P.No.1 of 2013

The Managing Director
Metropolitan Transport Corporation
Pallavan Salai, Chennai-2. ... Appellant/Respondent

Vs.

B.Jaya ... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 20.12.2012 made in MCOP No.1570 of 2006 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.S.Sivakumar

For respondent : Mr.S.Vijayakumar

J U D G M E N T

This appeal is directed against the judgement and decree made in MCOP No.1570 of 2006, dated 20.12.2012, wherein, the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai, (for short, "the Tribunal") awarded a sum of Rs.2,80,000/- as compensation to the respondent for the death of one Venkatesh, who died in a motor accident that had occurred on 28.05.2002.

2.According to the respondent/claimant, on the fateful day, i.e., on 28.05.2002 at about 19.20 hours, while the deceased was riding his bicycle on the side of the Road at Periyar Salai, a bus bearing Registration No.TN-01-N-0247 belonging to the appellant Transport Corporation came in a rash and negligent manner and hit the deceased from back side. Due to the said accident, the deceased died on the spot. Hence, the respondent, who is the mother of the deceased filed a petition claiming a sum of Rs.5,00,000/- as compensation.

3.The Tribunal, on a consideration of the materials placed before it, has awarded a sum of Rs.2,80,000/-, the break up details of which are thus:-

Annual Income (by applying multiplier of 15 for 13 years Rs.15,000x15)	-	Rs.2,25,000/-
Loss of love and affection	-	Rs. 50,000/-
Funeral expenses	-	Rs. 5,000/-

Total	-	Rs.2,80,000/-

4.Challenging the quantum of compensation awarded by the Tribunal as excessive, the appellant Transport Corporation has preferred this appeal.

5. The learned counsel for the Appellant/Transport Corporation submitted that the Tribunal erred in holding that the accident had occurred only due to the rash and negligent driving of the driver of the Transport Corporation bus. He further submitted that the award of Rs.2,25,000/- under the head "loss of income" by the Tribunal is exorbitant and excessive, in the facts and circumstances of the case.

6. Per contra, the learned counsel for the respondent/claimant submitted that the Tribunal has analysed the materials on record in a threadbare manner and awarded the just compensation, which does not require any interference by this Court.

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

8. Before the Tribunal, the respondent/who is the mother of the deceased herself examined as PW.1, besides examining one C.Ravi/eyewitness to the accident, as PW.2 and Exs.P1 to P6 documents were marked. On the side of the appellant herein, one G.Gopalakrishnan, who was the investigator of the Transport Corporation, was examined as RW1, but no document was marked.

9. Ex.P6 is the First Information Report. Though the appellant Transport Corporation stated that the bus bearing Regn.No.TN 01 N 0247 was not at all involved in the accident, no trip sheet was filed and the driver and conductor of the driver were not examined to prove their case. Hence, the Tribunal came to the conclusion that the bus belonging to the appellant Transport Corporation was involved in the accident, which ran over the head of the deceased, resulting his death, which finding need not be interfered with by this Court, as the same

is based on the oral and documentary evidence adduced by the parties.

10. As far as the quantum of compensation awarded by the Tribunal is concerned, it is stated in the claim petition that the deceased was aged 17 years and was a student at the time of accident. The Tribunal has taken the age of the deceased as 17 years taking into account Exs.P1 burial ground certificate, P2-death certificate and P5 postmortem certificate, adopted the multiplier of 15 and fixed the annual income of the deceased at Rs.15,000/- and accordingly determined the compensation under the head "loss of income" at Rs.2,25,000/- (Rs.15,000 x 15), which is based on the materials and evidence and hence, the same is hereby confirmed by this Court.

11. That apart, the award of Rs.50,000/- towards loss of love and affection and Rs.5,000/- towards funeral expenses are just and reasonable, taking note of the fact that the respondent is the widow and she lost her beloved son at the age of 42 years. Hence, this Court finds no good reason to interfere with the same.

12. In view of the above stated circumstances, this Civil Miscellaneous Appeal is dismissed, confirming the impugned judgment and decree passed by the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

13. The Appellant / Transport Corporation shall deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal, 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 is directed to transfer the deposited amount to the Savings Bank Account of the claimant / respondent herein, within one week thereafter, through RTGS.

सत्यमेव जयते
Sd/-

Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
IV Court of Small Causes, Chennai.

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

+lcc to Mr.S.Vijayakumar, Advocate SR.No.60497

C.M.A.No.2417 of 2013 and
M.P.No.1 of 2013

NRJK (CO)
GMY (19/11/2019)



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