

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 15.03.2019

Judgment Pronounced on : 27.06.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.57 of 2012

1.Nanjunda Rao

2.Leela Bai @ Neela Bai ... Appellants/Claimants

Versus

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Bharathipuram,Dharmapuri. ... Respondent/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 18.06.2009 made in MCOP.No.1096 of 2006 on the file of the Motor Vehicle Claims Chief Judicial Magistrate, Krishnagiri.

For Appellants : Mr.Mukund R.Pandiyar

For Respondent : Mr.D.Venkatachalam, Standing Counsel

JUDGMENT

The first claimant is the appellant herein, who preferred this appeal for enhancement of compensation.

2. The brief facts of the case are as follows:-

On 28.02.2006 at about 4.40 p.m. the deceased Viswanathan was walking along the Veppanapalli to Berigai road near Devaraj Tea stall. At that time, the Government Bus, route No. 48 bearing Registration No.TN-29-N-1165 driven by its driver A.Rajendran, came from Veppanapalli and proceeding towards Veerapasandiram in a rash and negligent manner, in a hectic speed, without sounding the horn and without minding the rules of the road, dashed against the said Viswanathan. Due to the said impact, the deceased Viswanathan sustained grievous injuries in his vital organs. Immediately, he was taken to Dr.Ashok Hospital, Veppanapalli, wherein he was declared dead. The postmortem was done by the Duty Doctor at Government Hospital, Krishnagiri. The deceased Viswanathan was a third party to the offending vehicle involved in the said accident. The accident was caused by the negligent driving of the driver of the bus. The Veppanapalli police has registered a case against the driver of the said bus in Crime No.92/2006 U/s 279 and 304(A) of IPC.

3.The factum of the accident and the rash and negligent driving on the part of the driver of the Tamil Nadu State Transport Corporation Ltd., bus are not in dispute. Accordingly, in this regard the findings of the Tribunal are hereby confirmed.

4.On the point of quantum, I have heard both sides and perused the materials available on record.

5.The learned counsel appearing for the appellant would content that at the time of accident, the deceased was aged 15 years and was studying 10th standard. Though he was not an earning person, the father of the deceased prayed compensation of Rs.5,00,000/-.

6.On going through the oral and documentary evidence of Ex.P5/School certificate issued by the Headmaster of the Government School at Vepapanapalli, it is seen that the age of the deceased at the time of accident was 15 years. Taking note of age of the deceased Viswanathan on the date of accident, the Tribunal ought to have awarded appropriate amount as compensation, but what was awarded is meager and not in consonance with the decision of the Hon'ble Supreme Court rendered in the case of Kishan Gopal and others Vs. Lala and others reported in (2014) 1 SCC 244. In the said decision, the Honourable Supreme Court fixed the annual national income of the minor boy aged 10 years at Rs.30,000/- and adopted multiplier 15 and awarded a sum of Rs.4,50,000/- and also awarded another sum of Rs.50,000/- under the other conventional heads of love and affection and funeral expenses. Thus, in total a sum of Rs.5,00,000/- has been granted by the Hon'ble Supreme Court. But in the present case, the Tribunal without taking note of the above decision rendered by the Hon'ble Supreme Court, has awarded only a lumpsum compensation of Rs.2,50,000/- which is not proper.

7.Taking into consideration, the factual matrix and also ratio laid down by the Hon'ble Supreme court, I am inclined to allow the compensation of Rs.5,00,000/- on the same lines as observed by the Hon'ble Supreme Court decision as cited supra. Hence this appeal is allowed.

8.In the result,

(i) the Civil Miscellaneous Appeal is allowed.

(ii) The compensation amount of Rs.2,50,000/- awarded by the Tribunal is hereby enhanced to Rs.5,00,000/-, with interest at the rate of 7.5% per annum, from the date of petition till the date of realisation.

(iii) This Court directs the Transport Corporation/respondent to deposit the enhanced compensation amount with interest, as ordered by this Court along with the costs of the MCOP, and less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this Judgment.

(iv) Out of the said amount, the appellants/claimants are entitled to equal share.

(v) On such deposit being made, the appellants/claimants are permitted to withdraw their share amount with proportionate

interest and costs.

(vi) The appellants/claimants are directed to pay necessary Court fee for the enhanced compensation.

(vii) There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

klt

To

The Chief Judicial Magistrate
The Motor Accident Claims Tribunal,
Krishnagiri.

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

+1cc to Mr.D.Venkatachalam, Advocate SR.No.53672

+1cc to Mr.Mukund R.Pandiyan, Advocate SR.No.54423

C.M.A.No.57 of 2012

SSI (CO)
GMY (12/02/2020)

सत्यमेव जयते
WEB COPY