

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3034 of 2018  
and C.M.P.No.23016 of 2018

The Managing Director,  
Tamil Nadu State Transport  
Corporation Limited,  
12, Ramakrishna Road, Salem District. ... Appellant

Vs.

1.R.Jayalalitha

2.Kiruba

3.Deepa

4.Roopa

5.Alamelu ... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the judgment and decree dated 21.08.2017 made in M.C.O.P.No.1152 of 2016 on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the award dated 21.08.2017 made in M.C.O.P.No.1152 of 2016 on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem.

2. The appellant/Transport Corporation is respondent in M.C.O.P.No.1152 of 2016 on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem. The respondents 1 to 5/claimants filed the said M.C.O.P. claiming a sum of Rs.20,00,000/- as compensation for the death of one Ravikumar, who died in the accident that took place on 08.03.2016.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation and directed the appellant/Transport Corporation to pay a sum of Rs.22,12,764/- as compensation to the respondents 1 to 5/claimants.

4.Against the said award of the Tribunal, dated 21.08.2017 made in M.C.O.P.No.1152 of 2016, the appellant/Transport Corporation has come out with the present Civil Miscellaneous Appeal challenging the quantum of compensation awarded by the Tribunal.

5.The learned counsel appearing for the appellant contended that the Tribunal has erred in fixing monthly income of the deceased at Rs.23,441/- in the absence of any proof. The respondents have failed to prove the occupation and income of the deceased. The deceased worked in the Army and after his death, the first respondent will get family pension. The Tribunal has failed to consider this fact and ought not to have fixed monthly income of the deceased at Rs.23,441/-. The amounts awarded by the Tribunal under different heads are excessive and prayed for setting aside the award of the Tribunal.

6.I have heard the learned counsel appearing for the appellant and perused the materials available on record.

7.From the award of the Tribunal, it is seen that the respondents have produced proof that the deceased was getting pension of Rs.14,066/- and also was earning a sum of Rs.9,375/- as monthly income from a Dairy farm, Salem. The appellant has not produced any contra evidence to disprove the contention of the respondents. The contention of the learned counsel for the appellant that the Tribunal has failed to consider that the first respondent would get family pension from Army is without merits. The family pension cannot be treated as income for a widow. The Tribunal has rightly fixed income of the deceased at Rs.23,441/- for calculating loss of income. The amounts awarded by the Tribunal under different heads are not excessive. In such circumstances, there is no error in the said reasoning of the Tribunal warranting interference by this Court.

8. In the result, the award passed by the Tribunal is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. The appellant/Transport Corporation is directed to deposit the award amount granted by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents/claimants are

permitted to withdraw their respective shares from the award amount as apportioned by the Tribunal along with interest and costs, after adjusting the amount, if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,  
The Special District Judge, Salem.

Copy to

The Section Officer,  
VR Section, High Court, Madras.

+1cc to Mr.D.Venkatachalam, Advocate Sr.1313

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pm[co]  
srg 26/04/2019