

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3128 of 2018

and

C.M.P.No.23738 of 2018

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Bharathipuram, Dharmapuri.

Appellant

Vs.

1.Kalaivani
2.K.P.Ganesan
3.K.G.Rambabu

Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of The Motor Vehicles Act, 1988, against the judgment and decree dated 27.02.2015 made in M.C.O.P. No.1012 of 2013 on the file of the Motor Accidents Claims Tribunal, Special District Court for Motor Accidents Claims Cases, Krishnagiri.

For Appellant : Mr.D.Venkatachalam

For Respondents : Mr.S.C.Vishwanth

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the judgment and decree dated 27.02.2015 made in M.C.O.P. No.1012 of 2013 on the file of the Motor Accidents Claims Tribunal, Special District Court for Motor Accidents Claims Cases, Krishnagiri.

2.By consent of both the parties, this Civil Miscellaneous Appeal is taken up for final disposal at the admission stage itself.

3.The appellant/Transport Corporation is the respondent in M.C.O.P. No.1012 of 2013 on the file of the Motor Accidents Claims Tribunal, Special District Court for Motor Accidents Claims Cases, Krishnagiri. The respondents filed the above claim petition claiming a sum of Rs.10,00,000/- as compensation for the death of one G.Anandan, who died in the accident that took place on 19.09.2013.

4.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 appellant/Transport Corporation and directed the appellant to pay a sum of Rs.23,56,000/- as compensation to the respondents.

5.Against the said award dated 27.02.2015 made in M.C.O.P.No.1012 of 2013, the appellant/Transport Corporation has come out with the present appeal challenging the quantum of compensation awarded by the Tribunal.

6.The learned counsel appearing for the appellant contended that the Tribunal erred in fixing monthly income of the deceased as Rs.15,000/-per month without there being any material and awarded compensation excessively for loss of income. Similarly, the Tribunal also awarded excess compensation for loss of love and affection and funeral expenses and prayed for reducing the amounts awarded by the Tribunal.

7.Per contra, the learned counsel appearing for the respondents contended that the respondents have examined the neighbours, who were carrying on similar business and proved that the deceased was earning a sum of Rs.15,000/- per month. The Tribunal appreciating the evidence let in by the respondents in proper perspective has fixed the notional income of the deceased, which is not excessive. The amounts awarded by the Tribunal under different heads are not excessive and prayed for dismissing the appeal filed by the appellant.

8.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents and perused the materials on record.

9.From the materials available on record, it is seen that the accident occurred in the year 2013. The respondents claimed that the deceased was doing Readymade Garment business and was earning Rs.15,000/- per month. PW.1 has deposed to that effect and also examined PW.2, to prove the same. Apart from the oral evidence, the respondents have not produced any materials to substantiate their claim. Considering the entire materials available on record, notional income of the deceased fixed by the Tribunal at Rs.15,000/- per month is excessive and the same is reduced to Rs.12,000/- per month. The deceased was aged 25 years at the time of the accident and the Tribunal has granted only 30% enhancement for future prospects, while the deceased is entitled to 40% enhancement for future prospects. In view of the above, the loss of income awarded by the Tribunal is modified as follows:

$$\text{Rs.}12,000/- + 4,800/- (40\% \text{ of } 12,000) \times 12 \times 18 \times 1/2 \\ = \text{Rs.}18,14,400/-$$

10. The amounts awarded by the Tribunal for loss of love and affection to respondents 1 and 2 and funeral expenses are excessive and the same are reduced to Rs.40,000/- each to respondents 1 and 2 from Rs.1,00,000/- each and Rs.25,000/- towards funeral expenses is reduced to Rs.15,000/-. The Tribunal has not awarded any amount for loss of estate and a sum of Rs.15,000/- is granted for loss of estate. The sum of Rs.20,000/- granted to the third respondent for loss of love and affection and the sum of Rs.5,000/- towards transport expenses are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Future Loss of income	21,06,000/-	18,14,400/-	reduced
2.	Loss of love and affection to the respondents 1 & 2	2,00,000/-	80,000	reduced
3.	Loss of love and affection to the third respondent	20,000/-	20,000/-	confirmed
4.	Transportation	5,000	5,000	confirmed
5.	Funeral expenses	25,000	15,000	reduced
6.	Loss of estate	-	15,000	granted
	Total	23,56,000/-	19,49,400/-	Reduced by Rs.4,06,600/-

11. With the above modification, the Civil Miscellaneous Appeal is partly allowed and the award of the Tribunal is hereby reduced from Rs.23,56,000/- to 19,49,400/-.

12.The appellant/Transport Corporation is directed to deposit the modified award amount, now determined by this Court 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 1 to 3/claimants are permitted to withdraw their respective shares along with interest and costs as per the apportionment made by the Tribunal, less the amount, if any, already withdrawn. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sms/rpl
To

The Motor Accidents Claims Tribunal,
Special District Court for Motor Accidents Claims Cases,
Krishnagiri.

+1cc to Mr.D.Venkatachalam, Advocate Sr.3788
+1cc to Mr.S.C.Vishwanth, Advocate Sr.3720

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