



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

CMA(MD).No.802 of 2019

and

CMP(MD).No. 10411 of 2019

WEB COPY

The Managing Director,
Tamil Nadu State Transport Corporation,
having its office at New Railway Station Road,
Kumbakonam. .. Appellant / Respondent

1.Suguna
2.Mallika ..Respondents / Petitioners

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the Award passed in MCOP.No. 698 of 2018 on the file of Motor Accidents Claims Tribunal (Special District Court), Thanjavur, dated 20.02.2019.

For appellant : Mr. P.M. Vishnuvarthanan

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant / Transport Corporation against the Award dated 20.02.2019 passed in MCOP.No. 698 of 2018 by the Motor Accidents Claims Tribunal (Special District Court), Thanjavur.

2. On 21.12.2017 at 9.15 a.m., while the deceased viz., Vijayakumar was proceeding in a Two wheeler bearing Regn.No.TN 49 AR 5437 Honda with a pillion rider from Thanjavur - Thiruvaiyaru main road, near Ammanpettai Chinna Chetty Street by keeping left side of the road, the appellant / Transport Corporation bus bearing Regn. No. TN 68 N 0046, which was coming in the opposite direction in a rash and negligent manner, dashed against the two wheeler, due to which, the deceased sustained multiple injuries and subsequently, died on the spot. The Legal Heirs of the deceased filed a claim petition in MCOP.No. 698 of 2018, on the file of Motor Accidents Claims Tribunal - Cum - Special District Court, Thanjavur claiming a sum of Rs.50,00,000/- as compensation.

3. The Tribunal, after considering the pleadings, oral and documentary evidence let in by the parties, awarded a sum of Rs.21,70,060/- together with interest at 7.5% per annum as compensation to the respondents / claimants.



4. Challenging the quantum of compensation awarded by the Tribunal, the appellant / Transport Corporation has filed the present appeal.

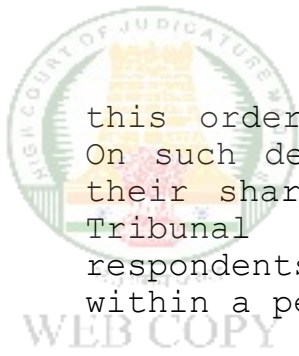
5. The only issue raised in the present appeal is that the notional income fixed by the Tribunal as Rs.12,500/- per month is on the higher side. According to the respondents / claimants, the deceased was working in Malaysia and when he returned to India, the accident has occurred and therefore, based on the earning of the deceased at Malaysia, the Tribunal fixed the notional income of the deceased at Rs.12,500/- per month. According to the appellant / Transport Corporation, the notional income fixed by the Tribunal is on the higher side and therefore, they have filed the present appeal, challenging the quantum of compensation awarded by the Tribunal.

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

7. Upon perusal of the Award passed by the Tribunal, it is seen that the Tribunal has fixed the notional income of the deceased as Rs.12,500/-. In the present case, the accident was occurred on 21.12.2017. The claimant was stated to be working as A/C Mechanic in Malaysia and earning Rs.15,000/- per month. Even assuming that the deceased was not working in the foreign country, as the age of the deceased was 32 years at the time of accident, definitely, he was in a position to earn more than Rs.12,500/- in India. The Hon'ble Apex Court in the case of fatal which took place in the year 2008, reported in **2014 ACJ 627 (Syed Sadiqu and others Vs. Divisional Manager, United India Insurance Company Limited)** has taken Rs.6,500/- as the notional income of the deceased in the absence of income proof. Therefore, considering the nature of the avocation of the deceased, the year of the accident and the escalation of prices, this Court is of the view that Rs.12,500/- taken by the Tribunal as notional income, cannot be said to be on the higher side.

8. In the present case, the notional income fixed by the Tribunal as Rs.12,500/- is just and fair. Therefore, there is no need to interfere with the notional income fixed by the Tribunal. In all other aspects, the appellant / Transport Corporation has not raised any grievance. Therefore, the award passed by the Tribunal is stands confirmed.

9. The appellant / Transport Corporation is directed to deposit the entire award amount together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit, to the credit of MCOP.No. 698 of 2018, on the file of the Motor Accidents Claims Tribunal (Special District Court), Thanjavur, within a period of eight weeks from the date of receipt of a copy of



this order, after deducting the amount already deposited if any. On such deposit, the respondents / claimants are entitled to get their share as per the apportionment fixed by the Tribunal. The Tribunal is directed to transfer the share amount of the respondents 1 and 2 / claimants to their account by way of RTGS, within a period three weeks thereafter.

10. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

trp

To

The Motor Accidents Claims Tribunal (Special District Court),
Thanjavur.

+1 CC to Mr.M.VISHNUVARTHANAN, Advocate (SR-98680[F] dated
15/11/2019)

CMA(MD).No.802 of 2019 and
CMP(MD).No. 10411 of 2019
13.11.2019

VB(06.02.2020) 3P 3C