



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 15.10.2020

Coram::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.No2549 of 2015
& M.P.Nos.1 of 2015

The Managing Director,
Andhrapradesh State Road Transport
Corporation Ltd., Musheerabad,
Hyderabad, Andhra Pradesh. Appellant/Respondent

/versus/

1. Rani, aged 45 years,
W/o.Rajendran.
2. Rajendran, aged 49 years,
S/o.Kuchiappa
3. Anitha, aged 19 years,
D/o.Rajendran.
4. Lavanya, minor aged 17 years,
Rep. by friend, mother Rani,
All are residing at Kali Koil,
(via) Vatatanapalli, Krishnagiri. ... Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, praying to set aside the award and decree dated 29.11.2013 passed by his honour the Special District Judge, Court of Motor Accidents Claims Tribunal, Krishnagiri in M.C.O.P.No.138 of 2013.

WEB COPY

For Appellant	: No appearance
For R1 to R4	: Mr.C.Prabakaran

J U D G M E N T

(The Case has been heard through Physical Hearing)

No representation for the Appellant. The Learned Counsel for the respondent is present and made his submissions.

2. This Appeal is filed by the Insurance Company. It is a case of an accident in which 28 years boy Thiru.Hanumathu, died while riding his two wheeler, hit by the Transport Bus of the appellant/Corporation.

3. The Tribunal, on considering the evidence placed before it, has accepted the plea of the claimants that the deceased was earning Rs.500/- per day as stone cutter and due to his death, they have lost the income of the deceased. The claimants before this Court, who are wife, son and two sisters.

4. The Tribunal, without any evidence regarding proof of income, has accepted the plea of the claimants that the deceased was earning Rs.15,000/- per month merely based on the reference in F.I.R, that the deceased was a stone cutter. Accepting the F.I.R registered against the driver of the Appellant/Corporation, the negligence has been fixed against the offending bus.

5. In the present appeal, it is contended by the Insurance Company that the deceased had no Driving License and his two wheeler was not duly insured. The income fixed at Rs.15,000/- per month, is without any basis and exorbitant.

6. In respect of income, in the family card which indicates that the deceased was an Agricultural Coolie. The Tribunal has exorbitantly fixed the income of the deceased and awarded a sum of Rs.15,95,000/- as compensation.

7. The Learned Counsel appearing for the respondent would submit that the Tribunal has rightly fixed the income at Rs.15,000/-, after deducting 50% towards personal expenditure and had applied correct multiplier, awarded fair and adequate compensation. Further, the Learned Counsel for the respondents also stated that the Tribunal has not considered the future prospects of the deceased and no additional compensation awarded towards the future prospects.

8. The Perusal of the records, this Court finds that the deceased was driving his two wheeler without Driving License. The Tribunal has not considered this aspects while fixing the compensation.

9. The Tribunal has also without any record to substantiate the income of the claimants, had fixed Rs.15,000/- as monthly income merely based on the ocular evidence of P.W.1. No doubt, the Tribunal has not added anything more to it under future prospects. But very fixation of Rs.15,000/- per month is per se exorbitant, without any supporting documents.

10. Therefore, this Court is bound to interfere in the exorbitant award passed by the Tribunal and modified the same as under:-

Compensation under various heads	Award passed by this Court
Loss of income (Rs.6,500 +40% FP) X 18 X 12 - 50% deduction	Rs.9,82,800/-
Funeral Expenses	Rs.15,000/-
Loss of parental consortium	Rs.40,000/-
Loss of love and affection in respect of claimants Nos.2 to 4	Rs.40,000/-
Total	Rs.10,77,800/-

11. Thus, the Transport Corporation shall deposit the modified amount from Rs.15,95,000/- to Rs.10,77,800/- with interest 7.5% from the date of filing the petition till the date of realisation, within a period of 12 weeks, from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the same amount equally, on filing proper application. The award amount as modified in this appeal is permitted to be withdrawn by the claimants less the amount already withdrawn by them if any, on filing proper application.

12. Accordingly, the Civil Miscellaneous Appeal is Partly-allowed. No order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

bsm
To,

1. The Special District Judge,
Court of Motor Accidents Claims Tribunal,
Krishnagiri.
2. The Section Officer,
V.R.Section, High Court, Madras. +2 copies

+1cc to Ms.G.V.Shoba, Advocate SR.No.34524
+1cc to Mr.C.Prabakaran, Advocate SR.No.34484

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SSD (CO)
GMY (28/04/2021)