

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED.21.09.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.3450 of 2013 &
M.P.No.1 of 2013

The Managing Director,
Metropolitan Transport Corporation,
Pallavan Salai, Chennai-2 ... Appellant/Respondent

vs.

1.Anandraj
2.A.Bhavani
3.A.Dilliammal (Minor)
4.A.Kayalvizhi (Minor) ... Respondents/Petitioners
(Minor respondents rep.by their
father and next friend A.Anandaraj)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 20.12.2012 made in MCOP.No.1836 of 2011 on the file of the Motor Accident Claims Tribunal (Vth Court of Small Causes, Chennai).

For Appellant : Mr.S.Sivakumar

For Respondents : Not ready in notice

JUDGMENT

[This Appeal has been taken up for hearing through
Video Conferencing]

This Appeal has been filed by the Transport Corporation challenging the award dated 20.12.2012 passed by the Motor Accident Claims Tribunal (Vth Court of Small Causes, Chennai) in MCOP.No.1836 of 2011.

2. The Appellant Transport Corporation has challenged the Award only on the ground that the quantum of compensation awarded by the Tribunal is excessive.

3. The Tribunal under the impugned award directed the Appellant Transport Corporation to pay the respondents a

compensation of Rs.4,42,500/- together with interest and costs as detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Pecuniary loss	4,25,472/- (3325 - 1/3 = 2216 x 12 x 16)
Love and affection	15,000/-
Funeral expenses	2,000/-
Total	4,42,475/-
Rounded off	4,42,500/-

4. Before the Tribunal, the respondents/claimants have filed documents which included the FIR, death certificate, postmortem certificate, legal heirship certificate, death certificate and school bonafide certificate which were marked as Exhibits as Ex.P1 to Ex.P6 and one witness was examined namely Mr.Anandraj, the father of the deceased who is the first respondent herein as PW1. On the side of the Appellant Transport Corporation, one document was filed which was marked as Ex.R1 and one witness was examined as RW1.

5. Heard Mr.S.Sivakumar, learned counsel for the Appellant. Since this Court is going to confirm the Award, notice to the respondents is dispensed with by this Court.

6. The claim has been filed under section 163-A of the Motor Vehicles Act. In the claim petition, the claimants have pleaded that the deceased A.Thiyagarajan was a lorry cleaner aged 19 years and earning Rs.7,000/- per month at the time of the accident. However, the Tribunal has fixed the notional monthly income of the deceased at Rs.3,325/- which is within the limits prescribed under Schedule - II of the Motor Vehicles Act and is also in accordance with Section 163-A of the Motor Vehicles Act. The annual income as determined by the Tribunal does not exceed Rs.40,000/- which is within the prescribed limits. Therefore, it cannot be considered as excessive, as alleged by the Appellant.

7. The Tribunal has also erroneously adopted 16 multiplier. The Tribunal should have adopted 18 multiplier, since the deceased was aged 19 years at the time of the accident. If the correct multiplier of 18 was adopted, the compensation awarded by the Tribunal would have been much higher. The overall compensation of Rs.4,42,500/- awarded to the claimants cannot be considered to be excessive and is in accordance with the prescribed limits as per Schedule - II of the Motor Vehicles Act for a claim made under section 163-A of the Motor Vehicles Act.

Conclusion:

8. For the foregoing reasons, there is no merit in this appeal. Accordingly, this Appeal is dismissed. However, the rate of interest fixed by the Tribunal at 7.5% per annum is confirmed. The Appellant Transport Corporation is directed to deposit the compensation amount along with interest from the date of claim till the date of deposit and costs after deducting the amount already deposited if any to the credit of MCOP.No.1836 of 2011 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the respective shares of the award amount along with accrued interest lying to the credit of MCOP.No.1836 of 2011 to the bank account of the respondents 1 & 2 /claimants 1 & 2 respectively through RTGS as per the ratio of apportionment made by the Tribunal within a period of two weeks thereafter. Since the respondents 3 & 4/claimants 3 & 4 are minors, their respective shares of the award amount shall be deposited in any one of the nationalised banks till they attain majority and the first respondent/Guardian of the minors is permitted to withdraw the interest once in six months. If the minors are attain the age of majority, it is open for them to file a formal petition before the Tribunal to declare them as a major. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
V Court of Small Causes, Chennai.

AKM/19.04.21/3P-2C/

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