

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED.29.09.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1238 of 2014

Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division I,
37, Mettupalayam Road,
Coimbatore

... Appellant/Respondent

vs.

1.Lakshathipathi

2.Malarkodi

...Respondents/Claimants

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decreetal order dated 06.04.2011 passed in MCOP.No.14 of 2010 by the learned Sub Judge, Motor Accident Claims Tribunal, Mannarkudi.

For Appellant : Mr.S.Swaminathan

For Respondents : No such address

JUDGMENT

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

This Appeal has been filed by the Appellant Transport Corporation challenging the award dated 06.04.2011 passed by the Motor Accident claims Tribunal (Sub ordinate Judge, Mannargudi) in MCOP.No.14 of 2010.

2. A person by name Kabaleeswaran died on 26.02.2006 as a result of an accident caused by a bus owned by the Appellant Transport Corporation. The respondents are the legal heirs of the deceased Kabaleeswaran. They preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.14 of 2010 seeking compensation for the death of Kabaleeswaran.

3. The Motor Accident Claims Tribunal under the impugned award directed the Appellant Transport Corporation to pay the

respondents a compensation of Rs.6,12,000/- (4500 x 17 x 12 - 1/3) together with interest and costs.

4. The Appellant Transport Corporation has challenged the impugned award only on the ground that the quantum of compensation awarded by the Tribunal under the impugned award is excessive.

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

6. Before the Tribunal, the respondents/claimants have filed eight documents which were marked as Ex.A1 to Ex.A8 and three witnesses were examined on their side namely, the first respondent/first claimant as PW1 and eyewitnesses to the accident as PW2 & PW3. On the side of the Appellant/Transport Corporation, neither any document was filed nor any witness examined before the Tribunal.

7. As seen from the impugned award, the Tribunal has not awarded any compensation towards loss of future prospects which the respondents/claimants are legally entitled to as per the Constitution Bench Judgment of the Hon'ble Supreme Court in the case of National Insurance Company Limited Vs. Pranay Sethi & others reported in 2017 (2) TN MAC 609 (SC).

8. The Tribunal has also erroneously deducted 17 multiplier instead of 18 multiplier as the deceased was aged 22 years at the time of the accident.

9. The Tribunal has also fixed the notional monthly income of the deceased at Rs.4,500/-. In the claim petition, the respondents/claimants have pleaded that the deceased was earning Rs.7,500/- at the time of the accident. The accident happened in the year 2006. Considering the year of the accident, the assessment made by the Tribunal with regard to the notional monthly income of the deceased at Rs.4,500/- cannot be considered to be excessive as alleged by the Appellant.

10. Eventhough the Tribunal has erroneously deducted 1/3rd towards the personal expenses of the deceased, when the correct deduction is 50%, since the deceased was a bachelor at the time of the accident, the overall compensation awarded by the Tribunal cannot be considered to be excessive as alleged by the Appellant Transport Corporation.

Conclusion:

11. For the foregoing reasons, 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 amount awarded by the Tribunal under the impugned award 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.14 of 2010 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.14 of 2010 to the bank account of the respondents /claimants as per the ratio apportioned by the Tribunal through RTGS within a period of two weeks thereafter. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Motor Vehicles Accidents Claims Tribunal,
Sub Judge, Mannargudi.

+1cc to Mr.S.S.Swaminathan, Advocate Sr.32052

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