



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.NO.1639 OF 2020

AND

C.M.P.NO.12070 OF 2020

Tamil Nadu State Transport Corporation
Villupuram Ltd., Rep. by its Managing Director,
(Villupuram Division-II) Ltd.,
No.3/137, Salamedu, Vazhuthareddy & Post,
Villupuram Taluk, Villupuram District-605401. .. Appellant/
Respondent

Vs.

K.Thiruvengkatam (since died)
1. T.Thangaraj
2. M.Shanthi
3. K.Sathiya
4. T.Palraj
5. T.Mayakannan .. Respondents/
Petitioner

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Order and Decree dated 15.04.2019, made in M.C.O.P.No.1936 of 2015, on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mr.C.S.K.Sathish

For Respondents : Mr.K.Suryanarayanan

J U D G M E N T

The Transport Corporation, challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal is before this Court with this appeal.



2. The deceased in this case is by name T.Dilliraj. The claimants are the legal representatives of the deceased. According to them, on 14.01.2015, at about 11.30 a.m. the deceased was riding his two wheeler on the G.S.T.Road from Chennai to Chengelpet, at that time, the bus belonging to the appellant/transport corporation came in the opposite direction in a rash and negligent manner and hit the two wheeler, in which, the deceased sustained fatal injuries and died on the spot.

3. At the time of the accident, the deceased was running a Photo studio and was earning a sum of Rs.20,000/- per month. At the time of the accident, the deceased was 25 years old bachelor. As he was the sole breadwinner of the family, seeking compensation to the tune of Rs.50,00,000/-, the claimants have filed the claim petition before the Tribunal.

4. The appellant/transport corporation contested the claim petition on the ground that the accident had taken place due to the rash and negligent driving of the deceased and no negligence can be fixed on the driver of the Transport Corporation bus. That apart, it is contended that the claim made by the claimants are highly excessive.

5. Before the Tribunal, the claimant examined one witness as P.W.1 and marked as many as 13 documents and on the side of the appellant/transport corporation, the driver of the bus was examined as R.W.1 and no document was marked on their side.

6. After considering the materials available on record, the Tribunal came to the conclusion that the accident had taken place due to the rash and negligent driving of the vehicle belonging to the respondent transport corporation. So far as the quantum of compensation is concerned, the Tribunal fixed the monthly income of the deceased at Rs.10,000/- and based on the date of birth mentioned in the driving licence fixed the age of the deceased at 25 years. As he was a bachelor added 50% towards loss of future prospects and arrived at the notional monthly income at Rs.15,000/- and arrived at Rs.1,80,000/- as the annual income. After deducting 50% towards his personal expenses arrived at the annual notion income at Rs.90,000/-. As the age of the deceased was 25 years, applied 18 multiplier and arrived at the loss of dependency at Rs.16,20,000/-. Further, towards love and affection awarded a sum of Rs.50,000/- and towards funeral expenses awarded a sum of Rs.15,000/-. Thus, the Tribunal awarded a total sum of Rs.16,85,000/- as total



compensation. Being aggrieved on the same, the appellant / transport corporation filed the present appeal.

7. Mr.C.S.K.Sathish, learned counsel appearing for the appellant/transport corporation would contend that even as per the claim petition, the age of the deceased was 26 years, however, the Tribunal has fixed the age as 25 years and applied multiplier of 18 without any reason whatsoever. According to the learned counsel, the age of the deceased has to be fixed at 26 years and the appropriate multiplier would be 17. That apart, as per the judgement of the Hon'ble Supreme Court in National Insurance Company Limited vs. Pranay Sethi and Ors reported in (2017) 16 SCC 680, only 40% has to be ordered for future prospects, whereas the Tribunal has awarded 50% and awarded huge compensation to the claimants who are all brothers and sisters and they are not dependent on the deceased.

8. Per contra, the learned counsel appearing for the respondents/claimants would contend that the age of the deceased was fixed based on the date of birth mentioned in the driving licence but inadvertently the age is stated as 26 years in the claim petition. He has also fairly submitted that towards future prospects as per the judgment of the Hon'ble Supreme Court in Pranay Sethi case (cited supra) only 40% has to be added to the monthly income. Further according to him, in respect of other heads, the Tribunal has awarded very low amount which has to be enhanced.

9. I have considered the rival submissions and also perused the records carefully.

10. The primordial contention of the learned counsel appearing for the appellant / transport corporation is that regarding the age of the deceased, perusal of the claim petition, it can be seen that the age of the deceased was mentioned as 26 years. But however the Tribunal fixed the age as 25 years based on the date of birth mentioned in the driving licence. Mr.C.S.K.Sathish, learned counsel appearing for the appellant further submitted that as per the date of birth mentioned in the driving licence, he has already completed 25 years and his age is only 26 years at the time of the accident and in that event the multiplier will also proportionately change. I find some force in his argument. When the claimants themselves have stated that the age of the deceased as 26 years, the Tribunal ought not to have fixed the age as 25 years. Hence, the age of the deceased has to be taken as 26 years



instead of 25 years and the appropriate multiplier would be 17 instead of 18. As per the judgement of the Hon'ble Supreme Court in Pranay Sethi case (cited supra) it has been held that in case of injured/deceased self employed who is upto the age of 40, only 40% has to be added towards future prospects. However, the Tribunal has added 50% which is liable to be modified. In such circumstances, the monthly notional income will be Rs.10,000/- + 40% = Rs.14,000/-. As the deceased was a bachelor 50% of the monthly income should be deducted towards his personal expenses. Hence the notional monthly income will be Rs.14,000 - 50% = Rs.7,000/- and applying multiplier of 17, the loss of dependency will be Rs.7,000 x 12 x 17 = Rs.14,28,000/- instead of Rs.16,20,000/- awarded by the Tribunal. So far as the loss of love and affection is concerned, as all the claimants are brothers and sisters and it is now stated that even though they are legal representatives, they are not depended on the income of the deceased. Considering the above circumstances, a sum of Rs.40,000/- is granted towards loss of love and affection instead of Rs.50,000/- awarded by the Tribunal. Towards funeral expenses, the Tribunal has rightly awarded a sum of Rs.15,000/-, which requires no interference.

11. In view of the above, the compensation awarded by the Tribunal is modified as follows:

Sl No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced (Rs.)
1.	Loss of dependency	16,20,000	14,28,000	Reduced
2.	Loss of love and affection	50,000	40,000	Reduced
3.	Funeral expenses	15,000	15,000	Confirmed
4.	Loss of Estate	-	15,000	Granted
	Total	16,85,000	14,98,000 (Rounded off to Rs.15,00,00 0)	Reduced by Rs.1,85,000

12. In the result, the Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.16,85,000/- is hereby reduced to Rs.15,00,000/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The appellant / transport



corporation is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.1936 of 2015, on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai. On such deposit, the respondents/claimants are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn by making necessary applications before the Tribunal. The respondents/claimants are entitled to refund of Court fee, in any, on the reduced amount of compensation now determined by this Court. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kk

To

1. The Motor Accident Claims Tribunal,
III Court of Small Causes, Chennai
2. The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.K.Suryanarayanan, Advocate, S.R.No.39502

C.M.A.No.1639 of 2020 and
C.M.P.No.12070 of 2020

CA(CO)
PM/15/09/2021