



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2020

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.893 of 2017
and
Cros.Obj.No.48 of 2019

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
(Coimbatore Division - II) Ltd.,
Chennimalai Road, Erode - 1,
Erode District.

...Appellant in CMA /
1st Respondent in Cros.Obj.

Vs

1. Maadan
2. Guruvammal
3. Vasanthi

...Respondents 1 to 3 in CMA / Cross Objectors

4.Babu
(R4 is driver, unnecessary party,

...4th respondent in the CMA
Hence given up)and 2nd respondent in Cros.Obj.

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 23.01.2012 made in MCOP No.462 of 2010 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.4, Bhavani, Erode District.

Cross Objection under Order 41 Rule 22 of the Code of Civil Procedure, against the judgment and decree dated 23.01.2012 made in MCOP No.462 of 2010 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.4, Bhavani, Erode District.

For Appellant in CMA /
1st respondent in Cross Obj. : Mr.R.T.Sundari

For respondents 1 to 3 in CMA / : Mr.C.Kulanthaivel
Cross Objectors

For R4 in C.M.A.No.893/2017
and R2 in Cross. Objection : No Appearance



COMMON JUDGMENT

Since both the appeal and the cross objection arise out of the same award passed by the Tribunal in MCOP.No.462/2010, the same are being taken up together and being decided vide this common judgment. Branding the compensation awarded by the Tribunal as excessive and exorbitant, the Transport Corporation has filed this appeal, whereas the claimants have preferred the cross objection seeking enhancement of the compensation awarded by the Tribunal.

2.The case in brief, is as follows:

On the fateful day, ie., on 27.08.2010, at about 09.00 p.m, the deceased Maral @ Marayee was travelling in the TNSTC Bus, bearing Registration No.TN 33 N 1613 belonging to the appellant, boarding from Ayamedu bus stop to go to Erode on the Kanchikovil - Chithode main road. The bus was driven by its driver in a rash and negligent manner at high speed. When the bus reached near J.J.Nagar, the driver suddenly applied the brake and due to the said impact, the deceased fell down and sustained grievous injuries and she succumbed to the injuries in the hospital. Stating that the accident had occurred only due to the carelessness and negligence on the part of the driver of the TNSTC bus, the son and daughters of the deceased filed a claim petition seeking compensation of Rs.10,00,000/- before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.2,09,000/- with interest at the rate of 7.5% per annum from the date of petition. Challenging the same, the appellant/Transport Corporation and the claimants/cross objectors have filed the appeal and Cross Objection, respectively.

3.The learned counsel for the appellant/Transport Corporation has submitted that the Tribunal has erred in holding that the driver of the appellant transport corporation bus was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

4.The learned counsel for the respondents 1 to 3 in the CMA / Cross Objectors, has submitted that though the deceased was earning Rs.6,000/- per month, the Tribunal has taken a lesser sum of Rs.3,000/- per month, while awarding the compensation under the head "loss of income" and also the amounts awarded towards other heads are very meagre; and hence, the same have to be enhanced substantially.



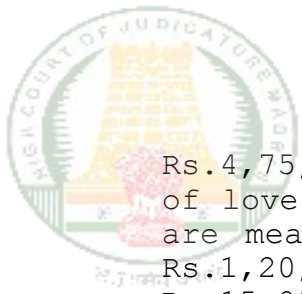
WEB COPY

5. Heard the learned counsel for the appellant/Transport Corporation and the learned counsel for the respondents 1 to 3 / claimants / Cross Objectors and perused the materials available on record carefully and meticulously.

6. The learned counsel for the appellant/Transport Corporation has not disputed the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving by the driver of the bus and hence the said finding of the Tribunal, need not be interfered with by this Court.

7. An analysis of the award of the Tribunal would go to show that placing reliance on the evidence of PW.2 and Ex.P1/First Information report, which was registered against the driver of the bus, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus. Though the driver of the bus, who was examined as R.W.1, in his evidence, deposed that the accident had occurred due to the negligent act of the deceased, in his cross examination, he admitted that the F.I.R. and charge sheet have been registered against him. The Tribunal, considering the oral and documentary evidence let in by the claimants, has come to the conclusion that the accident had occurred only due to rash and negligent driving by the driver of the bus belonging to the appellant/Transport Corporation. There is no error in the said finding of the Tribunal warranting interference by this Court.

8. With regard to the quantum of compensation, the son of the deceased was examined as P.W.1, who deposed in his evidence that the deceased was aged about 57 years and was earning Rs.6,000/- per month by doing Agricultural coolie. But the Tribunal has taken the monthly income of the deceased only at Rs.3,000/-, which appears to be very meager. This Court is of the view that fixing a sum of Rs.6,000/- as the monthly income of the deceased, would meet the ends of justice and it is fixed accordingly. As per Ex.P5/postmortem certificate the deceased was aged 57 years at the time of accident. The Tribunal has not granted any enhancement towards future prospects, while awarding loss of income. The claimants are entitled to 10% enhancement towards future prospects. The correct multiplier that should be adopted in this case is 9. If a sum of Rs.6,000/- is taken as monthly income and 10% of the amount towards enhancement towards future prospects is added, it works out to Rs.6,600/-. Thereafter, deducting $1/3^{\text{rd}}$ of the amount towards personal expenses of the deceased and applying the multiplier of 9, the loss of income works out to Rs.4,75,200/- [Rs.6,600/- x 12 x $2/3$ x 9]. Accordingly, the compensation awarded by the Tribunal towards permanent loss of income stands modified to



Rs.4,75,200/-. The amounts awarded by the Tribunal towards loss of love & affection, funeral expenses and transportation charges are meagre and it would be appropriate to enhance the same to Rs.1,20,000/- (@ Rs.40,000/- to each of the claimants), Rs.15,000/- and Rs.10,000/- respectively. Thus, the award of the Tribunal is enhanced from Rs.2,09,000/- to Rs.6,20,200/- the details of which, are as follows:

Heads	Compensation awarded by the Tribunal (Rs.)	Compensation enhanced by this Court (Rs.)
Loss of Income	1,92,000/-	4,75,200/-
Loss of love and affection to the respondents 1 to 3 at the rate of Rs.40,000/- each	10,000/-	1,20,000/-
Funeral Expenses	5,000/-	15,000/-
Transport charges	2,000/-	10,000/-
Total	2,09,000/-	6,20,200/-

Thus, the claimants are entitled to the modified compensation of Rs.6,20,200/-. It is made clear that only for the compensation of Rs.2,09,000/- awarded by the Tribunal, the interest rate of 7.5% per annum shall be calculated from the date of claim petition. For the enhanced sum of Rs.4,11,200/- the interest rate of 7.5% per annum shall be calculated only from the date of filing of the cross objection.

9. In the result, the Civil Miscellaneous Appeal is dismissed and the Cross Objection is partly allowed. No costs. The appellant/Transport Corporation is directed to deposit the modified compensation, as ordered above, after deducting the amount, if any, already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, all the claimants / cross objectors are permitted to withdraw their respective shares, as per the ratio of apportionment made by the Tribunal, on making proper application. It is also made clear that the claimants have to pay the appropriate Court fee in order to receive the awarded amount.

s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar



mtl

To

WEB COPY

1.The Motor Accidents Claims Tribunal,
Additional District Judge,
Fast Track Court No.4,
Bhavani, Erode District.

2.The Section Officer,
VR Section, Madras High Court.

+1 CC to Mr.C.Kulanthaivel, Advocate sr 28947.

C.M.A.No.893 of 2017
and
Cros.Obj.No.48 of 2019

LN(CO)
SP(12/08/2021)