



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A. NO.1628 OF 2015

AND

MP NO.1 OF 2015

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram Division - III) Ltd.,
Kancheepuram - 631 501.

...Appellant/Respondent

versus

1. E. Meenakshmi
2. E. Vijaya (minor)
3. E. Chockalingam (minor)
4. K.Mani
5. V. Papathi

...Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree passed by the Motor Accident Claims Tribunal, Chennai (Court of II Small Causes, Chennai) in MCOP No.5281 of 2004, dated 13.11.2014.

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

For Respondents : Not ready in notice

JUDGMENT

This appeal has been filed challenging the award dated 13.11.2014 passed by the Motor Accident Claims Tribunal, (Court of II Small Causes), Chennai) in MCOP No.5281 of 2004, dated 13.11.2014.



2. On 19.06.2004, a person by name V.Elumalai, was walking on the left side of the G.S.T. Road from Vandalur Railway gate towards bus stop as a pedestrian and due to the rash and negligent driving by the Driver of the Bus, which was owned by the appellant / Transport Corporation, he succumbed to his accidental injuries which resulted in the death.

3. The claimants are the legal representatives and the dependants of the deceased and they are his wife, two minor children and his parents. They preferred a claim before the Motor Accident Claims Tribunal, (Court of II Small Causes), Chennai against the appellant / Transport Corporation seeking a compensation of Rs.10,00,000/-.

4. The Motor Accidents Claims Tribunal, (Court of II Small Causes), Chennai by its award dated 13.11.2014 passed in M.C.O.P. No.5281 of 2004, directed the Appellant / Transport Corporation to pay the claimants a sum of Rs.9,45,000/- together with interest at 7.5% per annum from the date of numbering of the petition i.e. 21.12.2004 till the date of deposit.

5. Out of the total compensation, the Tribunal determined the amount payable to the first respondent / first claimant being the Wife of the deceased at Rs.3,95,000/-, the second and third respondents / claimants being the minor Daughter and Son of the deceased respectively at Rs.2,50,000/- each and the fifth respondent / claimant being the mother of the deceased at Rs.50,000/-.

6. In the claim petition, the respondents /claimants who are the dependants of the deceased Elumalai had claimed that the deceased was earning a sum of Rs.6000/- as a Welder. However, the Tribunal has fixed the monthly notional income of the deceased at Rs.5,000/-.

7. Aggrieved by the award dated 13.11.2014 passed by the Motor Accidents Claims Tribunal, (Court of II Small Causes), Chennai in M.C.O.P. No.5281 of 2004, this appeal has been filed by the Appellant / Transport Corporation.



8. The Appellant / Transport Corporation has filed the appeal questioning the quantum of compensation awarded by the Tribunal under the impugned award. According to them, the compensation fixed by the Tribunal is excessive.

9. The details of the compensation awarded by the Tribunal under the impugned award are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Pecuniary loss (Rs.5,000 - $\frac{1}{4}$ = Rs.3750 x 12 x 16)	720000
Loss of consortium	75000
Funeral of Expenses	25000
Love and affection (Rs.50,000/- each to respondents 2 and 3 and Rs.25,000/- to the 5 th respondent)	125000
Total	945000

10. Before the Tribunal, the respondents / claimants have filed four documents, which were marked as Exs.P1 to P4 and two witnesses were examined on their side viz., the wife of the deceased E. Meenakshi as PW1 and an eye witness to the accident viz., K.Bharathidasan as PW2. On the side of the Appellant / Transport Corporation viz., one witness was examined viz., S.Gopal, the Conductor of the Bus as RW1, but no exhibits were marked.

11. Heard Mr.C.S.K.Sathish, learned counsel for the appellant / Transport Corporation. Since, this Court is going to confirm the award of the Tribunal, service of notice to the respondents 1 to 5, who are the claimants are not necessary.

12. This Court has perused and examined the impugned award.



WEB

13. After giving due consideration to the year of the accident i.e. in the year 2004 and the avocation of the deceased, this Court is of the considered view that fixation of Rs.5,000/- as monthly income of the deceased by the Tribunal cannot be considered to be excessive. The Tribunal has also rightly applied the correct multiplier of 16 after giving due consideration to the age of 33 years. The Tribunal has also rightly deducted $\frac{1}{4}$ towards personal expenses of the deceased and thus, the calculation of pecuniary loss at Rs.7,20,000/- by the Tribunal is correct.

14. The amount awarded by the Tribunal under various other heads viz., Rs.75,000/- towards loss of consortium to the 1st respondent / 1st claimant, who is the wife of the deceased; Rs.25,000/- towards funeral expenses 50,000/- and Rs.1,25,000/- towards Loss of love and affection to 2nd, 3rd and 5th respondents (Rs.50,000/- each to 2nd and 3rd respondents, who are the minor children of the deceased and Rs.25,000/- to the 5th respondent, who is the mother of the deceased) which in the considered view of this Court are reasonable and a just compensation and cannot be considered to be excessive as alleged by the appellant / Transport Corporation.

15. For the foregoing reasons, this Court does not find any merit in this appeal and accordingly, the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

16. The Appellant / Transport Corporation is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of numbering of the petition i.e. 21.12.2004 till the date of deposit, less the amount, if any, already deposited to the credit of M.C.O.P. No.5281 of 2004 on the file of the Motor Accidents Claims Tribunal, (Court of II Small Causes), Chennai, 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 award amount directly to the bank account of the respondents 1 and 5 / major claimants, as per the same ratio of apportionment made by the Tribunal through RTGS, within a period of two weeks thereafter. It is made clear that the 2nd and 3rd respondents, who have now attained the age of majority



shall file a formal petition before the Tribunal to get their share of apportionment.

WEB COPY

Sd/-

Assistant Registrar(CJ Conf)

// True Copy //

Sub Assistant Registrar

vsi2

To :

1. The Motor Accident Claims Tribunal, II Judge,
(Court of Small Causes),
Chennai .
2. The Section Officer,
V.R. section,
High Court, Madras - 104.

C.M.A. No.1628 of 2015

PP(CO)
RLP(20/10/2021)