

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.Nos.1680 of 2020 and 1136 of 2021

and

C.M.P.No.12362 of 2020

C.M.A.No.1680 of 2020

Tamil Nadu State Transport Corporation Limited,
rep. through Managing Director,
Vellore.

... Appellant

Vs.

1.R.Shenbagavalli
2.Minor M.S.Govardana Sri
3.Minor M.S.Bhuvaneshwaran

(Minor represented thro' their
Mother Smt.R.Shenbagavalli)

4.J.Santhaseelan
5.L.Chandra

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to set aside the Judgment and Decree dated 13.11.2019 passed in MCOP No.12 of 2015 on the file of the Motor Accidents Claims Tribunal, (II Additional District Judge) Vellore at Ranipet.

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

For Respondents: Mr.Athithyavarman for
Mrs.Revathi Manivannan (for R1 to R3)

C.M.A.No.1136 of 2021

1.R.Shenbagavalli
2.Minor M.S.Govardana Sri
3.Minor M.S.Bhuvaneshwaran
(Minor represented by their
Mother, the first petitioner) ... Appellant

Vs.

1.J.Santhaseelan
2.Tamil Nadu State Transport Corporation Limited,
rep. through its Managing Director,
Rangapuram, Vellore.
3.L.Chandra ... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to enhance the amount awarded in Judgment and Decree dated 13.11.2019 passed in MCOP No.12 of 2015 on the file of the Motor Accidents Claims Tribunal, (II Additional District Judge) Vellore at Ranipet.

For Appellant : Mr.Athithyavarman for
Mrs.Revathi Manivannan

For Respondents : Mr.C.S.K.Sathish (for R2)

COMMON JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

Challenge in the appeal filed by the Transport Corporation is to the award passed by the Motor Accidents Claims Tribunal, (II Additional District Judge) Vellore at Ranipet in MCOP No.12 of 2015. Dissatisfied with the quantum, the claimants have come up with the another appeal CMA No.1136 of 2021 for enhancement of compensation.

2.This is the case of the fatal accident. The case of the claimants is that on 14.10.2014 at 06.45 a.m, the first claimant's husband, the deceased L.Muralidharan was travelling as pillion rider in a two wheeler bearing Reg.No.TN-73-F-2588, which was driven by one Anbu. When they were coming opposite to Pullithangal RIT College, a bus belonging to the appellant

Transport Corporation bearing Reg.No.TN-23-N-2355 driven by its driver in a rash and negligent manner, hit behind the motorcycle. In the impact, the deceased had sustained grievous injuries all over his body and died on the spot. The claimants are the legal heirs of the deceased. Alleging that the accident had taken place due to the rash and negligent driving of the driver of the appellant Transport Corporation bus, the claimants laid a petition, claiming compensation of Rs.56,00,000/-.

3.Resisting the claim, the appellant Transport Corporation filed their counter disputing the manner of accident, age, occupation and income of the deceased and its liability to pay the compensation. It was also contended that the claim is excessive and exorbitant.

4.To substantiate the case, on the side of the claimants, P.Ws.1 to 4 were examined and Exs.P1 to Ex.P.11 were marked. On the side of the appellant/Transport Corporation, R.W.1 and R.W.2, the first and third respondents in the claim petition were examined and no document was marked.

5.The Tribunal, after considering the oral and documentary evidence, held that the driver of the appellant bus was responsible for the accident and awarded compensation of Rs.44,40,250/- to the claimants under the following heads:-

Heads	Rs.
Transportation	5,000/-
Funeral Expenses	15,000/-
Loss of Dependency	40,35,252/-
Loss of Love and Affection to the minor petitioners 2 and 3 each Rs.50,000/-	1,00,000/-
Loss of Love and Affection to 3 rd respondent	30,000/-
Loss of Consortium to the 1 st petitioner	40,000/-
Maintenance of 2 minor small children	2,00,000/-
Loss of Estate	15,000/-
Total	44,40,252/-
Rounded off	44,40,250/-

Challenging the said award, while CMA.No.1680 of 2020 has been filed by the Transport Corporation on the ground that the award amount is on the higher side, CMA No.1136 of 2021 has been filed by the claimants on the ground that the award amount is meager.

6.These appeals have been filed only challenging the quantum, hence, the other issues need not be dealt with herein.

7.Mr.C.S.K.Sathish, learned counsel appearing for the appellant/Transport Corporation has contended that the award is on the higher side by wrongly fixing excessive monthly income of Rs.26,530/- and it requires reduction.

8.Mr.Athithyavarman, learned counsel appearing for the claimants submitted that due to the accident, the deceased died leaving behind two children and his wife, but the Tribunal has not awarded adequate compensation towards loss of consortium. He would further submit that the deceased died at the age of 45 years and the proper multiplier is ' 14', but the Tribunal adopted multiplier '13'.

9.We have considered the rival submissions of both the counsels and perused the materials available on records.

10.Perusal of the records reveal that the annual income of the deceased was fixed by the Tribunal based on the evidence of P.W.2 and Ex.P.9, Salary Certificate. Further, the customary quantum of compensation under remaining heads were fixed by the Tribunal by following the Judgment of the Hon'ble Supreme Court in the case of National Insurance Company Ltd., vs. Pranay Sethi reported in 2018(1) LW 331. We find no reason to interfere with the conclusion reached by the Tribunal. These appeals have no merit.

11.In such view of the matter, these Civil Miscellaneous Appeals are dismissed. The appellant/Transport Corporation is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the first claimant/wife is permitted to withdraw the award amount as apportioned by the Tribunal, less the amount already withdrawn, if any, together with proportionate interest and costs. Further, the Tribunal is directed to deposit the share of the minor claimants in any one of the nationalised

banks, as fixed deposit under the Cumulative Deposit Scheme, till the minors attain the age of majors and hand over the fixed deposit certificates to the mother of the minor claimants. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar(CS)

// True Copy //

Sub Assistant Registrar

skn

To

- 1.The Motor Accidents Claims Tribunal,
(II Additional District Judge) Vellore at Ranipet.
- 2.The Section Officer,
V.R.Section, High Court,
Chennai.

+1cc to Mrs.Revathi Manivannan, Advocate SR.No.43130

C.M.A.Nos.1680 of 2020 and 1136 of 2021
and
C.M.P.No.12362 of 2020

JPL(CO)
CB(06/01/2022)