



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A.No.1906 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Railway Station new Road,
Kumbakonam.

.. Appellant

Vs.

1.Ushamari

2.Minor Deepak

3.Minor Sindhuja

(Minors 2 & 3 represented by her
mother Ushamari, the 1st respondent herein)

4.Aachiammal

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 20.02.2012 made in M.C.O.P.No.265 of 2009 on the file of Motor Accidents Claims Tribunal, Subordinate Court, Mannarkudi.

For Appellant : Mr.D.Venkatachalam

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the award dated 20.02.2012 passed by the Motor Accidents Claims Tribunal, Subordinate Court, Mannarkudi in and by which, a sum of Rs.14,90,440/- was awarded as compensation for the death of one Mohan in favour of the claimants/respondents 1 to 4.

2. On 25.06.2009 at about 3.45 hours, the deceased Mohan while driving a motorcycle bearing Registration No.TN-50-B-8638 at Perunjathangkudi Main Road near Panneer Tea Stall, a bus bearing Registration No.TN-49-N-1117 belonging to the appellant/Transport Corporation came in a rash and negligent manner and dashed against the motorcycle. As a result of which, the deceased sustained fatal injuries and died on the spot itself. The respondents herein who are the wife, children and

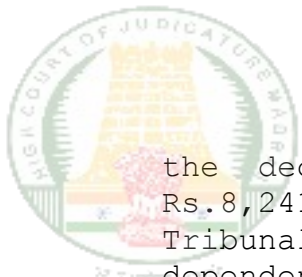


3. Resisting the claim petition, the appellant herein has filed a counter affidavit wherein, denying the manner of the accident and also age, income and avocation of the deceased. According to the appellant/Transport Corporation there was no negligence on the part of the driver of the bus, but it was on the part of the deceased who came and dashed against the bus and sustained injuries.

5. On consideration of oral and documentary evidence available on record, the Tribunal has awarded a total sum of Rs.14,90,440/- as compensation.

7.The learned counsel appearing for the appellant/Transport Corporation would contend that the Tribunal has not considered the evidence available on record properly and erroneously applied the multiplier method and fixed the income at Rs.12,362/- which is on the higher side. Therefore, the learned counsel for the appellant/Transport Corporation seeks interference of this Court and reduce the quantum of compensation.

9. On perusal of the award passed by the Tribunal, it appears that the Tribunal has come to the conclusion that there was negligence on the part of the driver of the bus due to which the accident had occurred and taking note of the fact that the deceased was working as a Cashier in Indian Overseas Bank, Thiruvavarur Branch and by relying upon Ex.P6, fixed the monthly income of the deceased at Rs.12,362/-. It is not in dispute that the deceased at the time of accident, was aged about 37 years and therefore, the Tribunal applied multiplier '15' and after deducting $1/3^{\text{rd}}$ towards his personal expenses taken the income of



the deceased for the purpose of calculating the award at Rs.8,241/- and as such by adopting the multiplier '15', the Tribunal has awarded a sum of Rs.14,83,440/- towards loss of dependency. As regards the funeral expenses and transportation, the Tribunal also awarded a sum of Rs.2,000/- and Rs.5,000/- respectively and the same are confirmed by this Court. Totally, the Tribunal awarded a sum of Rs.14,90,440/- as compensation, which, in the opinion of this Court is just and fair and requires no interference.

10. Therefore, a perusal of the entire award, the Tribunal perused each and every aspect in proper perspective and fixation of income also based on the salary certificate Ex.P6 produced by the claimants/respondents and taking note of the age of the deceased, the Tribunal has also rightly adopted the multiplier '15'. Thus, the Tribunal has awarded a total sum of Rs.14,90,440/- as compensation to the respondents/claimants and the amounts awarded by the Tribunal under different heads, are just and reasonable and there is no error in the said award passed by the Tribunal.

11. Accordingly, the award passed by the Tribunal is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. The Appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 and 4 are permitted to withdraw their share of the award amount as per the ratio of apportionment fixed by the tribunal, with interest and costs, after adjusting the amount already withdrawn, if any, by making necessary applications before the Tribunal. The share of the minor respondents 2 and 3 is directed to be deposited in any one of the Nationalised Bank till they attain majority. The 1st respondent/mother of the minor respondents 2 and 3 is permitted to withdraw the interest, once in three months for the welfare of the minor respondents 2 and 3. No costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

Gbi



To

1.The Sub-Judge,
Motor Accidents Claims Tribunal,
Mannarkudi.

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

+1cc to Mr.D.Venkatachalam, Advocate SR.No.4516

C.M.A.No.1906 of 2017

SVI(CO)
GN(25/02/2022)