



C.M.A.(MD).No.786 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.786 of 2019

and

C.M.P(MD) No.10145 of 2019

The Tamil Nadu State Express Transport Corporation
Represented by its Managing Director,
Nagercoil, Nagercoil Village,
Agasteeswaram Taluk,
Kanyakumari District.

..... Appellant/2nd Respondent

-vs-

1. S.Subramonia Pillai
S/o.K.Sivamalu Pillai

2. S.Uma Sankar
S/o.S.Subramonia Pillai Respondents 1 and 2 /Petitioners 1 and 2

K.Sivamalu Pillai (Died)

3. T.Thangam 3rd Respondent/1st Respondent

(The 3rd respondent is driver of appellant and that given up)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award and decree made in M.C.O.P.No.75 of 2014, dated 29.03.2019, on the file of the Motor Accidents Claims Tribunal/ Chief Judicial Magistrate Court, Kanyakumari District at Nagercoil.



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For Appellant : Mr.P.Prabhakaran

For Respondents : Mr.P.Senthil – for R1 and R2
: No appearance – For R3

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the Transport Corporation, challenging the quantum of award in M.C.O.P.No.75 of 2014, dated 29.03.2019, on the file of the Motor Accidents Claims Tribunal/ Chief Judicial Magistrate Court, Kanyakumari District at Nagercoil.

2. According to the claim petition, the deceased was working as a staff in Matrimonial Office and she was also a part time Tailor. While she was purchasing groceries in a shop at about 11.45 am, a water tanker lorry belonging to the Transport Corporation was driven in a rash and negligent manner and entered into the shop and caused serious injuries to the deceased person. The deceased was admitted to Asaripallam Government Medical College Hospital and passed away on 08.07.2014.

3. According to the claimants, the deceased was working as a staff in a Matrimonial Office, and receiving a salary of Rs.4,500/- (Rupees Four



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Thousand and Five Hundred only). Apart from that, she was doing a tailoring job from home and she was earning a further sum of Rs.4,500/- (Rupees Four Thousand and Five Hundred only) and the husband and the son are the claimants and they have claimed a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) as compensation.

4. The respondent Transport Corporation has filed a counter disputing the allegation of rash and negligent driving and also the quantum of compensation claimed by the claimants.

5. The Tribunal, after considering the oral and documentary evidence filed on either side, arrived at a finding that the deceased was earning a sum of Rs.9,000/- (Rupees Nine Thousand only) per month and thereafter, proceeded to fix the total award amount of Rs.10,90,000/- (Rupees Ten Lakhs Ninety Thousand only). The said award is under challenge in the present Civil Miscellaneous Appeal.

6. According to the learned counsel appearing for the appellant, under Ex.P6, Income Certificate has been produced by the claimants to the effect



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that the deceased was working as a staff in a matrimonial office. As per the said document, she was receiving a salary of Rs.4,500/- (Rupees Four Thousand and Five Hundred only). Apart from the said Certificate, no other document has been placed on record to show that she was doing tailoring business. When there are no documents on record to establish that the deceased was also doing tailoring work, the Tribunal had erroneously taken the monthly income at the rate of Rs.9,000/- (Rupees Nine Thousand only) per month. Therefore, he prayed that the quantum of compensation may be reduced to the said extent.

7. Per contra, the learned counsel appearing for the respondents 1 and 2 relied upon the Ex.P.4, which is a receipt for purchasing the tailoring machine. Therefore, relying upon the said document, he contended that the deceased was also doing tailoring business after working hours in the Matrimonial Office. He further pointed out that being a home maker, the said work should also be taken into consideration for the calculation of the compensation. Hence, he prayed that the award passed by the Tribunal may be sustained and the appeal may be dismissed.



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8. I have carefully considered the submissions made by the learned counsel on either side.

9. On perusal of the award passed by the Tribunal, it is seen that the Tribunal had taken into consideration the salary certificate issued by the Matrimonial office marked as Ex.P.6 for earning capacity of the deceased a sum of Rs.4,500/- (Rupees Four Thousand and Five Hundred only). Apart from that, the Tribunal has taken into consideration a sum of Rs.4,500/- (Rupees Four Thousand and five Hundred only) being derived from tailoring business. This Rs.4,500/- (Rupees Four Thousand and five Hundred only) being awarded under the head of income from the tailoring business is being attacked by the appellant Transport Corporation on the ground that it is not supported by any oral or documentary evidence. He pointed out that except producing the receipt for purchasing of Sewing Machine in the year 1996, no other document has been placed on record in support of the case that she was also doing tailoring business.



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10. However, as rightly contended by the learned counsel appearing for the respondents 1 and 2, the deceased, apart from working in the Matrimonial Office, was certainly living with her husband and son and performing matrimonial duty. The said fact has also to be taken into consideration at the time of fixing of compensation. This court is of the view that Rs.2,500/- per month would be quantified as compensation towards matrimonial duties. Therefore, the quantum of compensation fixed by the Tribunal at Rs.9,000/- (Rupees Nine Thousand) per month is reduced to a sum of Rs.7,000/- (Rupees Seven Thousand only) per month and the future prospects at the rate of 25% would be added to the said Rs.7,000/- (Rupees Seven Thousand only) and therefore, it will come to Rs.8,750/- per month. Since the age of the deceased is 42, multiplier '14' is to be applied. Therefore, the loss of income is Rs.9,80,000/- ($\text{Rs.}8,750 \times 12 \times 14 \times 2/3$). All other heads awarded by the Tribunal are hereby confirmed. It is made clear that only the compensation awarded under the head loss of income is reduced from Rs.10,08,000/- (Rupees Ten Lakhs and Eight Thousand only) to Rs.9,80,000/- (Rupees Nine Lakhs and Eighty Thousand only).



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11. In view of the above said discussion, the said award amount is modified to the extent as stated below:

Loss of Income	: Rs. 9,80,000/-
Loss of Consortium	: Rs. 40,000/-
Loss of Estate	: Rs. 15,000/-
Funeral Expenses	: Rs. 15,000/-
Other Expenses	: <u>Rs. 12,000/-</u>
Total	: Rs.10,62,000/-

12. The compensation awarded by the Tribunal is modified and the award amount is reduced from Rs.10,90,000/- (Rupees Ten Lakhs and Ninety Thousand only) to Rs.10,62,000/- (Rupees Ten Lakhs and Sixty Two Thousand only). The 1st claimant shall be entitled to Rs.6,90,000/- (Rupees Six Lakhs and Ninety Thousand only) and the second claimant shall be entitled to Rs.3,72,000/- (Rupees Three Lakhs and Seventy Two Thousand only). The Transport Corporation is directed to deposit the modified amount with interest at the rate of 7.5% per annum from the date of petition, less the amount already deposited, to the credit of the claim petition, within a period of six weeks from the date of receipt of a copy of this order. On such deposit,



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the claimants are entitled to withdraw the same as apportioned above along with proportionate interest and costs after following due process of law less the amount already withdrawn.

13. Accordingly, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

16.03.2023
(2/2)

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accidents Claims Tribunal/
Chief Judicial Magistrate Court,
Kanyakumari District at Nagercoil.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR,J.

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