



C.M.A(MD)No.334 of 2013

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.334 of 2013

and

M.P.(MD)No.1 of 2013

The Branch Manager,
M/s. Tamil Nadu State Express
Transport Corporation,
Chennai.

... Appellant

Vs.

1.Sundarambal
2.Sivasankar
3.Sundararajan
4.Pankajam

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgement and decree passed in M.C.O.P.No.401 of 2006, dated 04.10.2007, on the file of the Motor Accident Claims Tribunal, Sub-Court, Kulithalai.

For Appellant : Mr.M.Prakash

For Respondents : No appearance



WEB COPY



C.M.A(MD)No.334 of 2013

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal.

2. It is a case of fatal. The contention of the Transport Corporation is that the Tribunal has wrongly fixed the monthly income of the deceased as Rs.11,000/- The Tribunal had relied on the exhibits marked by the claimants but the said exhibits are not substantiated through the employer and hence the veracity cannot be ascertained. In such circumstances, the said exhibit cannot be accepted. On perusing the exhibit, it is seen that the deceased was working in a Cooperative Society and the claimants have submitted the salary slip before the Tribunal. When evidence has been submitted the same is acceptable. When there is no contra evidence, there is no ground to reject the same. Therefore this Court is of the considered opinion that the said salary slip is acceptable and the Tribunal is right in accepting the same and the fixation of Rs.11,000/- as monthly is appropriate. The Tribunal has deducted 1/3rd of the monthly income for personal expenses. Therefore, this Court is not inclined to interfere with the same.

3. The next contention of the Transport Corporation is that the Tribunal has



WEB COPY

awarded excessive amount under the head of loss of love and affection to the tune of Rs.20,000/-. The accident occurred on 17.11.2004. In the case of **Sarla Verma Vs. Delhi Transport Corporation** and in subsequent cases the Court has fixed the compensation under the head of loss of love and affection as Rs. 40,000/-. Further, it has been held that by taking the inflation into account, the same shall be increased accordingly. Based on this proposition, this Court is of the considered opinion that Rs.20,000/- awarded under the head of loss of love and affection for the accident which occurred in the year 2004 is appropriate. Therefore, this Court is not inclined to interfere with the same.

4. The next contention of the Transport Corporation is that negligence ought to be fixed on the deceased since the deceased is also responsible for the accident. On perusing the nature of accident, it is seen that the deceased was driving the motor cycle on the left side coming from cut road to main road without seeing the bus coming from the opposite direction. Thus, it is a head on collision. Therefore, this Court is inclined to fix the contributory negligence on the deceased person. Since the accident occurred in the year 2004, instead of fixing the percentage of contributory negligence, it would be appropriate to deduct Rs. 83,000/- from the total compensation.



C.M.A(MD)No.334 of 2013

WEB COPY

5. Total compensation awarded by the Tribunal = Rs.6,83,000/-

Deduction for contributory negligence = - Rs.83,000/-

Total compensation awarded by this Court = Rs.6,00,000/- (reduced)

Therefore, the total compensation awarded by the Tribunal to the tune of Rs. 6,83,000/- is reduced to Rs.6,00,000/- by this Court.

6. The appellant Transport Corporation is directed to deposit Rs.6,00,000/- (Rupees Six Lakh only) with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their shares (claimants 1 to 4 are entitled to Rs.2,75,000/-, Rs.1,30,000/-, Rs.1,30,000/-, Rs.65,000/- respectively) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal.



C.M.A(MD)No.334 of 2013

WEB COPY

7. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

11.06.2024

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

Tmg

To

- 1.The Motor Accident Claims Tribunal,
Sub-Court, Kulithalai.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A(MD)No.334 of 2013

S.SRIMATHY, J.

Tmg

C.M.A(MD)No.334 of 2013

11.06.2024