

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.3.2014

CORAM

THE HON'BLE MR. JUSTICE S.RAJESWARAN  
and  
THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

C.M.A.No.2323 of 2012  
and  
M.P.No.1 of 2012

Metropolitan Transport Corporation Ltd.,  
Represented by its Managing Director  
Chennai-2.

..Appellant/Respondent

Vs.

1.C. Sankaran  
2. S.Kasthuri

..Respondents/Petitioners

Appeal is filed under Section 173 of the Motor Vehicles Act 1988 against the award dated 29.10.2011 made in M.C.O.P.No.1834 of 2008 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Judge, Fast Track Court No.III, Chennai.

For Appellant : M/s. K.S. Suresh

For respondents : Mrs. Ramya V. Rao

JUDGMENT

(Judgment of the Court was delivered by S. RAJESWARAN, J.)

The Transport Corporation, aggrieved against the award, dated 29.10.2011, passed in M.C.O.P.No.1834 of 2008 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Judge, Fast Track Court No.III, Chennai, has filed the above appeal.

2.The brief facts are as follows:-

On 3.2.2008 at about 9.30 hours, when the deceased was proceeding in his motor cycle bearing Registration No.TN-05-P-1974 towards Chennai on the G.S.T. Road, near Mosque at Chengalpattu Bus

Stop, an M.T.C. Bus bearing Registration No.TN-01-N-4180, which was proceeding in the same direction in a rash and negligent manner, hit behind the motor cycle and as a result, the deceased was thrown out and succumbed to the injuries on the way to the hospital. The parents of the deceased filed a petition before the Motor Accident Claims Tribunal, Chennai, claiming a compensation of Rs.17.00 lakhs. That petition was resisted by the Insurance Company by filing a counter. The Tribunal, by order, dated 29.10.2011 awarded a total compensation of Rs.19,06,712/- with 9% interest from the date of the petition till the date of realization. Questioning the same, the above appeal has been filed by the Transport Corporation.

3.Since the Transport Corporation has filed the above appeal questioning only the quantum of compensation, we are not inclined to go into the other factual details of the case.

4.On 3.8.2012, at the time of admitting the appeal, an interim order was passed granting stay of the award on the condition that the petitioner / appellant to deposit the entire compensation amount with accrued interest and costs to the credit of the M.C.O.P.No.1834 of 2008 on the file of the Motor Accident Claims Tribunal (Court of Additional District Judge, FTC No.III, Chennai), within a period of eight weeks from the date of receipt of a copy of that order, failing which, interim stay granted would stand vacated automatically without any further reference to this Court.

5.The learned counsel for the appellant would submit that the lower court had committed an error in taking 50% of the salary for arriving at the compensation. Further, the multiplier adopted by the lower court was also not correct and if the correct multiplier adopted by the lower court was also not correct and if the correct multiplier had been adopted, the amount of compensation would have been much lower. The learned counsel further submitted that the Tribunal ought to have deducted 50% of the salary instead of 1/3 of the salary towards personal expenses.

6.Per contra, the learned counsel appearing for the respondents / claimants would submit that the deceased was aged about 25 years at the time of death and was working as a police constable. He was drawing a sum of Rs.12,000/- as salary and he was a bachelor. The learned counsel further submitted that for applying the correct multiplier, the Tribunal ought to have taken the age of the deceased and not the age of the dependents.

7.In this case, since the age of the deceased was 25 years at the time of the accident, the correct multiplier to be adopted was 18, whereas the Tribunal had adopted the multiplier 13 only. Therefore, if correct multiplier had been adopted, higher amount of compensation would have been fixed.

8. In support of her contention, the learned counsel relied upon the decision in Amrit Bhanu Shali and Others vs. National Insurance Co. Ltd., and others (2012 (2) TN MAC 321 (SC)), wherein, it has been held that the selection of Multiplier is based on the age of the deceased and not on the basis of the age of dependent. There may be a number of dependents of the deceased whose age may be different and therefore, the age of the dependents has no nexus with the computation of compensation.

9. Since the claimants/respondents have not filed either any cross appeal or cross objection, we are not inclined to interfere with the award of the Tribunal.

10. However, the learned counsel for the respondents has submitted that towards love and affection, the Tribunal had awarded only Rs.15,000/- each, which is very meagre and therefore, it has to be increased, as the courts are very considerate in awarding the conventional compensation towards this head.

11. We have heard the learned counsel for the appellant Corporation and the learned counsel for the claimants. We have also gone through the documents made available.

12. As rightly contended by the learned counsel for the respondents, in our view, what was awarded by the Tribunal in respect of love and affection is very meagre and therefore, we are inclined to award a sum of Rs.25,000/- each for the father and the mother of the deceased as against Rs.15,000/-. Accordingly, for both of them, Rs.50,000/- is awarded under the head of love and affection.

13. With regard to funeral and transport expenses, the Tribunal has awarded only a sum of Rs.5,000/-, which is also very meagre and therefore, we are inclined to increase the same as held by the Hon'ble Supreme Court. Accordingly, Rs.25,000/- is awarded for funeral and transport expenses put together.

14. Except the above two modifications, there are no other modifications in the award passed by the Tribunal.

15. It is submitted by the learned counsel for the appellant that the appellant Corporation had already deposited the entire amount of compensation awarded by the Tribunal and therefore, in view of the above said modifications, the appellant Corporation shall deposit only a sum of Rs.75,000/-, which has been fixed today over and above the award, to the credit of M.C.O.P.No.1834 of 2008 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Judge, FTC No.III, Chennai, within a period of four weeks from the date of receipt of a copy of this order without fail. On such

deposit being made, the claimants/respondents herein are entitled to withdraw the amount already deposited by the appellant Corporation by filing an appropriate petition before the court below. Further, they are also entitled to withdraw the amount awarded by this Court, namely, Rs.75,000/- as soon as the deposit is made.

16.With the above said modifications, the appeal is disposed of. No costs. Connected M.P. is closed.

Sd/-  
Asst.Registrar(CO)  
21.5.2014

/True Copy/

Sub Asst.Registrar

rnb

To

The Motor Accident Claims Tribunal /  
Additional District and Sessions Judge, FTC No.III,  
Chennai.

Copy to: The Section Officer,  
VR Section, High Court, Madras.

+1cc to Mr.K.S.Suresh, Advocate Sr 15569  
+1cc to Mr.A.N.Viswanatha Rao, Advocate Sr 15570

MG(CO)  
km/28.5.

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