

(2007) 12 MAD CK 0022

In the Madras High Court

Case No : C.M.A. (MD) No. 1624 of 2007 and M.P. (MD) No's. 4 and 5 of 2007

State Express Transport Corporation Ltd.

APPELLANT

Vs

Smt. Chitra and Sankarammal

RESPONDENT

Date of Decision : 19-12-2007

Acts Referred:

Citation : (2007) 12 MAD CK 0022

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : K. Gokul, for the Appellant; A. Issac Dhana Singh, for the Respondent

Judgement

G. Rajasuria, J.—This appeal is focussed as against the Judgment and Decree dated 31.12.2003 passed in M.C.O.P. No. 889 of 2002 by

the Motor Accidents Claims Tribunal-cum-the Fast Track Court No. I, Tirunelveli.

2. Heard the learned Counsel appearing for the appellant as well as the learned Counsel appearing for the respondents.

3. The Tribunal vide Judgment dated 31.12.2003 awarded compensation to a tune of Rs. 2,64,000/- (Rupees two lakhs and sixty four thousand

only) under the following sub-heads:

For loss of income - Rs. 2,16,000/-

For funeral expenses - Rs. 3,000/-

For loss of consortium - Rs. 15,000/-

For loss of love and

affection - Rs. 10,000/-

For loss of expectation

of life - Rs. 10,000/-

For mental agony - Rs. 10,000/-

Total - Rs. 2,64,000/-

4. The grievance of the appellant Transport Corporation is that the Tribunal awarded arbitrarily under various sub heads untenable compensation

which requires revision.

5. The point for consideration is as to whether the Tribunal awarded "just compensation"?

6. On point:

The learned Counsel for the appellant Transport Corporation would submit that the Tribunal has chosen the multiplier 18, which is against the law,

whereas the learned Counsel for the respondents/claimants would convincingly submit that as per the Second Schedule appended to the Motor

Vehicle Act, when the age of the deceased is 30, the multiplier 18 applied is correct.

7. I am fully aware of the fact that in all cases, the multiplier contemplated under the Second Schedule appended to the Motor Vehicle Act need

not be taken as final. However, in this case the Tribunal has chosen the moderate sum only as the multiplicand so to say the Tribunal assessed the

monthly income of the deceased at Rs. 1,500/- (Rupees one thousand and five hundred only) as he was working as a clerk in a finance company.

After deducting 1/3 of the income towards the expenditure which the deceased would have incurred for maintaining himself had he been alive

irrespective of the fact whether the deceased lead the life of a Bohemian or that of a Spartan, it took up the monthly dependency of the claimants

as Rs. 1000/- (Rupees one thousand only) and in such a case if the multiplier is also reduced as prayed by the learned Counsel for the appellant

Transport Corporation, then the final assessment of compensation would get reduced significantly affecting the concept ""just compensation"". It is a

trite proposition of law that mathematics is a worst master and as such in this case, if this Court proceeds based on the suggestion of the learned

Counsel for the appellant Transport Corporation, then the ultimate compensation

which could be assessed would be on the lower side. Hence, I would like to confirm the assessment of the annual dependency, made by the Tribunal as such.

8. Under the caption loss of consortium, the Tribunal awarded a sum of Rs. 15,000/- (Rupees fifteen thousand only) which also could be confirmed.

9. The Tribunal awarded sum of Rs. 10,000/- (Rupees ten thousand only) for loss of love and affection, which could be enhanced to Rs. 20,000/- (Rupees twenty thousand only).

10. The Tribunal awarded a sum of Rs. 10,000/- (Rupees ten thousand only) under the caption loss of expectation of life. But in this case, the deceased died on the spot. In injury cases, awarding compensation for loss of expectation of life or relating to shortening of longevity would be meaningful. Hence, compensation awarded under that caption has to be deleted and accordingly deleted.

11. Regarding mental agony a sum of Rs. 10,000/- (Rupees ten thousand only) awarded. But in this case there is nothing to show that the deceased sustained injury and he took treatment for some period. Hence, that could be replaced by the following two sub heads:

(i) Under the sub head transport expenses a sum of Rs. 8000/- (Rupees eight thousand only) could be awarded taking into consideration the cost of the transportation.

(ii) Under the caption funeral expenses a sum of Rs. 5000/- (Rupees five thousand only) could be awarded by enhancing it for Rs. 3,000/- (Rupees three thousand only).

12. Even though there is rearrangement of the sub heads, yet the total compensation remains the same as under:

For loss of income - Rs. 2,16,000/-

For funeral expenses - Rs. 5,000/-

For loss of consortium - Rs. 15,000/-

For loss of love and

affection - Rs. 20,000/-

For transport expenses - Rs. 8,000/-

Total - Rs. 2,64,000/-

13. The Tribunal awarded 9% interest p.a., hence, the interest awarded is reduced to 7.5% in commensurate with the decisions of the Hon''ble

Apex Court in Tamil Nadu State Transport Corporation Ltd. v. S. Rajapriya and Ors. reported in 2005(2) TAC 297 SC and in New India

Assurance Co. Ltd. v. Charlie and Anr. reported in 2006 (1) TAC 1 (SC).

14. I, therefore do not find any merit in this Appeal and accordingly it is dismissed. The award of the Tribunal is confirmed, which shall carry

interest at the rate of 7.5%. No costs. Consequently, the connected Miscellaneous Petitions are also dismissed.