

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.06.2015

Coram:

The Hon'ble Mr. Justice N.KIRUBAKARAN

C.M.A.No.1007 of 2015
and M.P.No.1 of 2015+

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Bharthipuram, Salem Main Road,
Dharmapuri. .. Appellant / Respondent
Vs

1.Ravi
2.R.Kamatchi .. Respondents / Petitioners

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against judgment and decree dated 28.04.2013 made in MCOP No.56 of 2013 on the file of the Motor Accident Claims Tribunal, District Judge, Special Court for Motor Accident Claims Cases, Krishnagiri.

For Appellant : Mr.D.Venkatachalam
For Respondents : Mr.V.Vijayakumar

J U D G M E N T

The appeal has been preferred by the transport corporation against the award of Rs.10,36,000/- awarded by the tribunal for the death of one Velan, aged about 19 years, a carpenter alleged to be earning a sum of Rs.10,000/- per month, who died in the accident occurred on 31.12.2011.

2. Heard Mr.D.Venkatachalam, learned counsel appearing for the appellant/transport corporation and Mr.V.Vijayakumar, learned counsel appearing for the respondents/claimants.

3. The only question raised by the learned counsel for the appellant is with regard the quantum of compensation awarded by the tribunal.

4. The tribunal, taking the monthly income of the deceased at Rs.4,800/-, deducting 1/3rd towards personal expenses, again adding 50% towards future prospects and applying multiplier 12 as per the age of the mother of the deceased, arrived at a sum of Rs.9,21,600/- as the loss of income to the family and including other conventional damages, awarded a sum of Rs.10,36,000/- as compensation.

5. In the considered view of this court, Rs.4800/- determined by the tribunal as monthly income is on the lower side and in the year 2011, it is very difficult to get even a manual labour for a sum of Rs.5500/- and therefore a sum of Rs.5500/- is determined as the monthly income. As per the decision of the Hon'ble Apex Court in Sarla Verma & Ors vs Delhi Transport Corpn. reported in 2009 (2) TANMAC 1, 50% has to be added towards future prospects as the age of the deceased is 19 years. Thus, Rs.5500 + 50% comes to Rs.8,250/-. The tribunal committed error in following the multiplier applicable to the age of the mother and therefore following the latest judgment of the Hon'ble Apex Court in Amit Bhanu Shali and others vs. National Insurance Co.Ltd. And others reported in 2012 ACJ 2002, the age of the deceased alone has to be taken into consideration for determination of multiplier. Accordingly, the age of the deceased is 19 years and the proper multiplier applicable is 18. However, since the deceased is a bachelor aged 19 years, 50% has to be deducted towards personal expenses. Thus, the loss of income would be as follows -

Rs.5500 + 50% = Rs.8,250/- less 50% = Rs.4,125 x 12 x 18 = Rs.8,91,000/-

6. The tribunal rightly awarded a sum of Rs.1,00,000/- towards loss of love & affection to the respondents and hence the same is confirmed. Rs.5,000/- awarded by the tribunal towards transportation is too low and the same is enhanced to Rs.10,000/- and similarly Rs.10,000/- awarded towards funeral expenses is hereby enhanced to Rs.25,000/-. Thus, the award of Rs.10,36,000/- is hereby reduced to Rs.10,26,000/-, rounded off to Rs.10,20,000/- break-up as follows -

Loss of income	...	Rs. 8,91,000/-
Loss of love & affection	...	Rs. 1,00,000/-
Transportation	...	Rs. 10,000/-
Funeral expenses	...	Rs. 25,000/-

Total ... Rs.10,26,000/-

Rounded off to Rs.10,20,000/-.

The rate of interest awarded by the tribunal remains unaltered.

7. In the result, the Civil Miscellaneous Appeal is partly allowed reducing the compensation from Rs.10,36,000/- to Rs.10,20,000/- alongwith interest @ 7.5% per annum from the date of petition till the date of deposit. No costs. Consequently, connected Miscellaneous Petition is closed.

8. The appellant/Transport Corporation is directed to bring a cheque or Demand Draft, for 50% of the compensation amount payable to the respondents/claimants, before this Court, on 9th July, 2015 and the balance 50% on 30.07.2015 and same shall be received by the Secretary, Tamil Nadu Legal Services Authority, High Court, Madras, who shall hand over the same to the claimants directly. In the event of failure on the part of the appellant/Transport Corporation to produce the Demand Draft or cheque for the compensation amount on the aforesaid dates, the Chairman cum Managing Director, the Financial Advisor and Chief Accounts Officer shall appear before this Court on that day.

Post the matter for compliance on 09.07.2015.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rgr

To

The District Judge,
Special Court for Motor Accident Claims Cases,
Krishnagiri.

+1cc to Mr.D. Venkatachalam, Advocate, S.R.No.27994

+1cc to Mr.V. Vijayakumar, Advocate, S.R.No.27996

Copy to: The Section Officer,
Judicial Department, High Court, Madras.

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EU(29/06/2015

C.M.A.No.1007 of 2015

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