IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA No.1363 of 2015
and M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation,
GWT Road, White Gate, Kanchipuram. ... Appellant / Respondent

vs.

1.Azhagesan
2.Kumaravel
3.Parimala
4.Minor Kowsika
(Minor represented by mother and
guardian/next friend Parimala) ... Respondents/Petitioners

Prayer :- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the judgment and decree passed by the Motor Accident Claims Tribunal, District Court II, Kanchipuram in MCOP No.246 of 2012 dated 19.02.2015.

For Appellant : M/s.P.Paramasivadoss
For Respondent : Mr.C.Prabhakaran

J U D G M E N T

The appeal has been preferred by the Transport Corporation against the award of Rs.4,93,000/- as compensation for the death of one Arjunan, 40 years old self-employed carpenter alleged to be earning Rs.10,000/- per month who died in the accident occurred on 26.02.2011.

2. Heard Mr.P.Paramasivadoss, learned counsel appearing for the appellant/transport corporation and Mr.C.Prabhakaran, learned counsel appearing for the respondents/claimants.

3. The only question to be decided is with regard to the quantum of compensation awarded by the tribunal.

4. Though Mr.P.Paramasivadoss, learned counsel appearing for the appellant would very strenuously argue that the amount awarded is on the higher side.

5. A close scrutiny of the award would show that the necessary compensation was not awarded. The tribunal taking Rs.4,500/- as monthly income in the absence of any material evidence with regard to the income, determined the monthly income at Rs.4,500/- and deducted 1/3rd towards personal expenses and applying multiplier 13, awarded a sum of Rs.4,68,000/- as compensation under the head loss of dependency. However, no amount has been added towards future prospects.

6. As per the judgment of the Hon;ble Supreme Court in Santosh Devi V. National Insurance Company Limited and Others reported in 2012 ACJ 1428 and Sarla Verma & Ors vs Delhi Transport Corpn. reported in 2009 (2) TANMAC 1, for the person aged about 48 years, 30% is required to be added towards future prospects. Following the judgments of the Hon'ble Supreme Court cited supra, 30% is added towards future propsects and the loss of income is Rs.4500 + 30% = Rs.5,850/-. Though the tribunal deducted 1/3rd towards personal expenses, the appropriate deduction is only 1/4th since the family of deceased consists of four members. The appropriate multiplier 13 was rightly adopted by the tribunal and thus, the loss of dependency is calculated as follows -

Rs.4500 + 30% = Rs.5,850 Less 1/4th = Rs.4387.50 x 12 x 13 = Rs.6,84,450/-

7. The claimants are sons, daughter-in-law and grandson of the deceased and therefore Rs.20,000/- awarded by the tribunal towards loss of love & affection is enhanced to Rs.60,000/-. Rs.5,000/- awarded towards funeral expenses is very meagre and the same is enhanced to Rs.20,000/-. No amount was awarded towards transportation and hence a sum of Rs.15,000/- is awarded under this head. Thus, the amount of Rs.4,93,000/- is hereby enhanced to Rs.7,79,450/-, rounded off to Rs.7,75,000/-, break-up as follows -

(1) Loss of dependency	...	Rs.6,84,450/-
(2) Funeral expenses	...	Rs. 20,000/-
(3) Loss of love & affection	...	Rs. 60,000/-
(4) Transportation	...	Rs. 15,000/-
Total	...	Rs.7,79,450/-

Rounded off to Rs.7,75,000/-.

The rate of interest awarded by the tribunal @ 7.5% is very reasonable and the same is confirmed.

8. The appellant/transport corporation is directed to deposit the entire amount awarded by this Court, alongwith interest and costs within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the respondents/claimants 1 and

2 are permitted withdraw Rs.2,50,000/- each alongwith proportionate interest and the 3rd respondent/claimant is permitted to withdraw Rs.2,00,000/- alongwith proportionate interest and costs. The tribunal is directed to deposit Rs.75,000/- alongwith proportionate interest and costs, being the share of the 4th respondent/claimant in any one of the Nationalised Bank, in an interest bearing Fixed Deposit, till the minor attains majority. The interest accruing on the fixed deposit should not be withdrawn by the 3rd respondent as it is necessary either for the educational or marriage expenses of the 4th respondent. In the event of failure on the part of the appellant/Transport Corporation to deposit the entire award amount alongwith interst and costs, on the aforesaid date, the Chairman cum Managing Director, the Financial Advisor and Chief Accounts Officer shall appear before this Court on the said date.

9. In the result, the Civil Miscellaneous Appeal is disposed of enhancing the compensation to Rs.7,75,000/- alongwith interest @ 7.5% per annum from the date of petition till the date of deposit. No costs. Consequently, connected Miscellaneous Petition are closed.

10. The learned counsel for the respondents/claimants is directed to pay the requisite court fee for the enhanced compensation within a period of ten days from the date of receipt of a copy of this order.

11. Registry is directed to forward a copy of this order directly to the respondents/claimants, free of cost.

Court fee for a sum of
Rs.2820/- vide SR 59740
dated 22.7.2015 enclosed.

rgr

s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The District Judge - II,
Kanchipuram.

2. The Chairman cum Managing Director,
Financial Advisor, The Chief Accounts Officer,
Tamil Nadu Transport Corporation,
GWT Road, White Gate, Kancheepuram.

3. Azhagesan
4. Kumaravel

5. Parimala
6. Minor Kowsika

(Minor rep by mother and guardian
next friend Parimala)

All are residing at
No.26, Pakkupettai village,
Kanchipuram Taluk and District.

+ 1 cc to M/s.C.Prabakaran, Advocate SR 35968

+ 1 cc to M/s.P.Paramasivadoss, Advocate SR 35657

gp(co)
prk6/10

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