IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2015

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THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 1364 of 2015
&
M.P. No. 1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Villupuram Division III,
Kancheepuram. .. Appellant

Vs.

1. Sivagami
2. Shanmugam
3. Kamatchi
4. Muthukumar
(Respondents 2 to 4 declared as major
as per order in I.A. Nos. 707/09, 708/09
dt. 17.07.09 and I.A. No. 668/2012
dt. 12.10.2012) ..Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree 28.01.2014 passed in M.C.O.P. No. 283 of 2005 by the Motor Accidents Claims Tribunal (IV Additional District Court), Thiruvallure at Ponneri, Thiruvallure District.

For Appellant :: Mr.S. Sairaman

For Respondents:: Mr.M. Selvam

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Transport Corporation as against the award of Rs. 5 lakhs passed by the Motor Accidents Claims Tribunal (IV Additional District Court), Thiruvallure at Ponneri, Thiruvallure District, for the death of one Dhansing, aged about 38 years, a coolie alleged to earning Rs.3000/- per month, in the accident, which occurred on 14.09.1999.

2. Heard Mr.S. Sairaman, learned counsel for the appellant and Mr.M. Selvam, learned counsel for the respondents.

3. The only issue in question is the quantum of compensation awarded by the Tribunal.

4. The Tribunal, in the absence of any proof regarding income, fixed Rs.3000/- as the monthly income; deducted one-third towards "Personal Expenses"and arrived at Rs.2000/- as "Monthly Contribution of the family". However, as per the judgment of the Honourable Apex Court in Smt. Sarla Verma and Others V. Delhi Transport Corporation and another reported in 2009 6 SCC 121, when the size of the family is more than three, one-fourth deduction has to be made and therefore, deducting one-fourth towards "Personal Expenses", "Monthly Contribution of the deceased to his family" would be,

Monthly Income	::	Rs.3000/-
Less: One-fourth towards "Personal Expenses "	::	Rs.3000/- (-) ¼ (Rs.3000/-)
Monthly contribution to the family	::	Rs.2250/-

As per the age of deceased, applying multiplier 15, "Loss of Income" is calculated as follows:

Loss of Income	::	Rs.2250 x 12 x 15
	::	Rs.4,05,000/-

Towards "Loss of Consortium", only a sum of Rs.40,000/- was awarded to the 1st respondent, which is very meagre. Therefore, in the light of the judgment of the Honourable Apex Court in Rajesh and others V. Rajbir Singh and others reported in 2013 3 CTC 883, a sum of Rs.1 lakh is awarded under the said head. The sum of Rs.1 lakh awarded to respondents 2 to 4 towards "Loss of love and affection" is reasonable and the same is confirmed. Since no amount was awarded towards "Transportation and Funeral Expenses", a sum of Rs.20,000/- is awarded under the said caption. In all, a sum of Rs. 6,25,000/- is payable as compensation to the respondents/claimants. The rate of interest awarded by the Tribunal at 7.5% per annum remains intact.

5. Though the appeal has been filed by the Transport Corporation against the award of the Tribunal, this Court, suo motu, has enhanced the compensation to the tune of Rs.6,25,000/-, invoking XLI Rule 33 CPC by re-appreciating the evidence on record and applying the correct law, as on date. What is to be awarded is just and reasonable compensation and therefore, this Court, even in the absence of appeal/cross-appeal by the claimants/respondents, has enhanced the compensation payable to the claimants.

6. The appellant Transport Corporation is directed to deposit the entire amount, as per the modified award passed by this Court, with interest and costs, after deducting the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this order failing which the Chairman cum Managing Director as well as Financial Advisor cum Chief Accounts Officer of the appellant Transport Corporation shall appear before

this Court on expiry of the said period. On such deposit being made, the respondents/claimants are permitted to withdraw the entire amount, as per the ratio fixed by the Tribunal, within a period of one week thereafter.The claimants shall pay additional court-fee for the enhanced amount, if any.

7. In the result, the Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal, to the tune of Rs.5 lakhs is enhanced to Rs.6,25,000/-. No costs. Connected M.P. is closed.

8. For reporting compliance or for appearance, post the matter after six weeks. Connected MP is closed.

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s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The MACT (IV Addl. Dist. Court),
   Thiruvallure at Ponneri,
   Thiruvallure District.

2. The Managing Director,
   Tamil Nadu State Transport Corporation Ltd,
   Villupuram Division III, Kancheepuram.

+ 1 cc to Mr.M.Selvam, Advocate SR 35220

+ 1 cc to Mr.S.Sriram, Advocate SR 35318

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