IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 1429 of 2015

1.Mrs.Devi
2.Mrs.Vennila ... Appellants/Petitioners

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
(VPM-DVN) Ltd.,
Thiruvannamalai,
Chennai 600 093. ... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of the Motor vehicles Act 1988 as against the judgment and decree dated 25.04.2014 passed in M.C.O.P. No. 5428 of 2012 by the Motor Accidents Claims Tribunal (IV Small Causes Court), Chennai.

For Appellants : Mr.K. Varadhakamaraj

For Respondent : Mr.P. Paramasivadoss

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimants as against the award of Rs. 1,25,000/- passed by the Motor Accidents Claims Tribunal (IV Small Causes Court), Chennai, for the death of one Sundaram, father of the appellants herein, aged about 70 years, alleged to be earning about Rs.7000/- per month as Watchman, in the accident, which occurred on 07.10.2012.

2. Heard Mr.K. Varadhakamaraj, learned counsel for the appellants and Mr.P. Paramasivadoss, learned counsel for the respondent.

3. Mr.K. Varadhakamaraj, learned counsel for the appellants would submit that eventhough the accident occurred in the

year 2012 and the deceased was earning Rs.7000/- per month, the Tribunal determined the monthly income only at Rs.3000/-, which is on the lower side. According to the learned counsel, the amount of Rs.20,000/- awarded towards "Loss of love and affection" is also very meagre.

4. On the other hand, Mr.P. Paramasivadoss, learned counsel for the respondent would support the award passed by the Tribunal.

5. As per Ex-P2, postmortem certificate, the age of the deceased is 70 years. It cannot be expected that a 70 year old man would earn more than Rs.3000/- per month. Taking into consideration the fact that the appellants are not dependent upon the income of the deceased, 50% was rightly deducted by the Tribunal towards "Personal Expenses" and Rs.1500/- was determined as his monthly income. Adopting multiplier 5, as per the age of the deceased, "Pecuniary loss" was rightly calculated as Rs.90,000/- (Rs.1500/- x 12 x 5). The sum of Rs.20,000/- awarded towards "Loss of Love and Affection" and Rs.15,000/- awarded towards "Funeral Expenses" are reasonable and are confirmed. Since the appellants are married daughters and they are not dependent on the income of the deceased, the amount arrived at by the Tribunal, cannot be said to be on the lower side. Hence, the award of the Tribunal, to the tune of Rs.1,25,000/- together with interest @ 7.5% per annum is reasonable and does not call for any enhancement. The appeal fails and the same is dismissed.

6. The respondent Transport Corporation is directed to deposit the entire award amount, with interest and costs, if not already deposited, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made or if the amount is already lying to the credit of the claim petition, the appellants are permitted to withdraw their respective shares, as per the apportionment of the Tribunal.

7. In the result, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

nv

To

The Motor Accident Claims Tribunal,
IV Small Causes Court,
Chennai.

+1cc to Mr.P.Paramasiva Doss, Advocate, S.R.No.36125
+1cc to Mr.K.Varadhakamaraj, Advocate, S.R.No.36404

C.M.A. No. 1429 of 2015

VSN(CO)
CA(10/08/2015)