IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA No.1491 of 2015
and M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation,
(Villupuram) Ltd.,
No.3/137, Salamedu,
Vazhudhareddy Post- 605 602. ... Appellant / Respondent

vs.

1.Alamelu
2.Arumugam ... 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, III rd Small Causes Court, Chennai made in MCOP No.169 of 2006 dated 26.03.2012.

For Appellant : Mr.P.Paramasivadoss

J U D G M E N T

The appeal has been preferred by the Transport Corporation against the award of Rs.5,55,000/- as compensation to the respondents/claimants for the death of one Senthil @ Senthilkumar, aged about 21 years old, a Weldor, alleged to be earning a sum of Rs.6,000/- per month who died in the accident occurred on 07.08.2004.

2. Heard Mr.P.Paramasivadoss, learned counsel appearing for the appellant/transport corporation would submit that the tribunal awarded a sum of Rs.5,55,000/- as compensation to the respondents/claimants which is on the higher side. Therefore, he seeks to reduce the amount.

3.A perusal of the award passed by the tribunal would show that in the absence of any material evidence, it took Rs.6,000/- as monthly income of the deceased and deducted 50% towards his personal expenses as the deceased was a bachelor and adopted multiplier of 15, according to the age of the mother of the deceased and accordingly, a sum of Rs.5,40,000/- had been awarded. Including other amounts, a sum of Rs.5,55,000/- had been awarded as total compensation.

4.According to Mr.P.Paramasiva Doss, learned counsel for the appellant, Rs.6,000/- taken by the Tribunal as monthly income of the deceased is on the higher side that too during the year 2004. However, the said contention is liable to be rejected, for the simple reason that, even in the year 2004, it is possible for a Weldor to get Rs.6,000/- as monthly income. In the absence of any material evidence, with regard to the proof of salary of the deceased, the Tribunal was justified in determining Rs.6,000/- as monthly income of the deceased and had rightly deducted 50% towards his personal expenses as the claimant was a bachelor. In my considered opinion, the multiplier to be applied is as per the age of the deceased and not as per the age of the mother of the deceased. As per the post-mortem certificate (Ex.P.3), at the time of accident, the deceased was aged about 21 years and therefore, the correct multiplier is 18 and hence, the loss of income of the deceased is calculated as follows:-

5.Loss of Income:- Rs.3,000 (Rs.6,000/- - 50%) x 12 x 18 = Rs.6,48,000/- Further, the parents lost their son, a sum of Rs.5,000/- towards love and affection is very negligible and hence, the same is enhanced to 60,000/-. A sum of Rs.5,000/- towards funeral expenses awarded by the Tribunal is too low and hence, the same is enhanced to Rs.20,000/-. No amount was awarded under the head of loss of estate by the Tribunal, hence, a sum of Rs.30,000/- is awarded under this head. Thus, the amount of Rs.5,55,000/- awarded by the tribunal is hereby enhanced to Rs.7,58,000/-, break-up as follows -

(1) Loss of income	...	Rs.6,48,000/
(2) Funeral expenses	...	Rs. 20,000/-
(3) Loss of love & affection	...	Rs. 60,000/-
(4) Loss of Estate	...	Rs. 30,000/-
Total	...	Rs.7,58,000/-

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

7.The enhancement as stated above has been made in the appeal filed by the transport corporation even in the absence of appeal/cross objection filed by the respondents/claimants and this Court has got power and jurisdiction to enhance the amount. Therefore, invoking Order 41 Rule 33, this Court, suo motto enhances the amount as the appeal is a continuation of original proceedings.

8.In the result, this Civil Miscellaneous Appeal is dismissed enhancing the compensation to Rs.7,58,000/- alongwith interest @ 7.5% per annum from the date of petition till the date of deposit. No costs. Consequently, connected Miscellaneous Petition is closed.

9.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 are permitted to withdraw their respective share amount alongwith proportionate interest, on the basis of ratio fixed by the tribunal. 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 09.10.2015.

10.Since, the appeal has been dismissed at the admission stage itself and the enhancement is being made, the respondents/claimants may not be in a position to know the enhancement of compensation. Therefore, registry is directed to send a copy of this order directly to the respondents/claimants, at free of cost. The Tribunal is directed to collect the requisite court fee for the enhanced compensation from the respondents/claimants, within a period of two weeks from the date of receipt of a copy of the order.

Post on 09.10.15 for compliance.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

jbm

To

1. THE MOTOR ACCIDENT CLAIMS RIBUNAL,
   IIIRD SMALL CAUSES COURT,CHENNAI.
2. THE CHARMAN CUM THE MANAGING DIRECTOR,
   TAMIL NADU STATE TRANSPORT CORPOTATION,(VILLUPURAM) LTD.,
   NO.3/137, SALAMEDU, VAZHUDHAREDDY POST 605 602.
3. THE FINANCIALA ADVISOR AND
   CHIEF ACCOUNSTS OFRFICER TAMIL NADU
   STATE TRANSPORT CORPORATION VILLUPURAM.

Copy to: 1. MRS. ALAMELU, W/O. ARUMUGAM,
RESIDING AT NO.10, M.C.M. ROAD,
TONDIARPET, CHENNAI-81.
2. MR. ARUMUGAM, S/O. MEGAVAN,
RESIDING AT NO.10, M.C.M. ROAD,
TONDIARPET, CHENNAI-81.

+ 1 cc to M/s. P. Paramasivadoss, Advocate SR.39063

CMA No.1491 of 2015

RSK(CO)
Eu 06.10.15