

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.07.2015

Coram :

The Hon'ble Mr.Justice N.KIRUBAKARAN

C.M.A.No.1565 of 2015
and M.P.No.1 of 2015

The Managing Director
Tamil Nadu State Transport
Corporation Ltd.,
Mettupalayam Road,
Coimbatore

.. Appellant / 2nd Respondent

vs

1.Saraswathi
2.Rukkumani

...Respondents / Petitioners1 & 2/
.... 3rd Respondent / 1st Respondent

Civil Miscellaneous Appeal filed u/s 173 of Motor Vehicles Act against the decree and order passed in MCOP No.427/2009 dated 12.03.2012 on the file of Motor Accident Claims Tribunal, Sub Court, Gobichettipalayam.

For Petitioner : Mrs.R.T.Sundari
For Respondent : Mr.S.P.Yuvaraj for R2

J U D G M E N T

The appeal has been preferred by the transport corporation against the award of 2,98,000/- for the death of one Murugasamy, the first respondent's son, aged about 38 years, an agriculturist cum milk vendor alleged to be earning a sum of Rs.18,000/- per month, who died in the accident occurred on 24.07.2009.

2. Heard Mrs.R.T.Sundari, learned counsel appearing for the petitioner and Mr.S.P.Yuvaraj, learned counsel appearing for the respondents/claimants.

3. The only question to be decided in this appeal is with regard to the quantum of compensation awarded by the tribunal. The deceased was a bachelor aged about 39 years at the time of accident, as proved by Ex.P2-postmortem certificate. Though the claimants have claimed Rs.18,000/- as the monthly income of the deceased, in the

absence of any documentary evidence, the tribunal determined the monthly income at Rs.3,000/-. It is very difficult to get a manual labour for a sum of Rs.3,000/- per month in the year 2009 and therefore this court re-determines the monthly income at Rs.5,000/- even though the Hon'ble Supreme Court in Syed Sadiq Etc vs Divisional Manager, United India Ins. Co. reported in 2014 (1) TN MAC 459 (SC) determined the monthly income of a vegetable vendor who got injured in the accident occurred in the year 2008 at Rs.6,500/-. The tribunal has rightly adopted the appropriate multiplier 16 and deducted 50% towards personal expenses. Therefore, the loss of income is calculated as follows -

$$\text{Rs.5,000} \times \frac{1}{2} \times 12 \times 16 = \text{Rs.4,80,000/-}$$

4. Only a sum of Rs.5,000/- is awarded towards loss of love & affection. It is seen from the legal heir certificate that the deceased and the second respondent were the only children of the first respondent, mother. Therefore, for loss of love & affection from his son, a sum of Rs.25,000/- is awarded by this Court. Similarly, the second respondent, being the sister of the deceased has also lost love & affection from his brother and thus a sum of Rs.10,000/- is awarded to her. A sum of Rs.5,000/- was awarded towards funeral expenses and hence this court awards a sum of Rs.15,000/- together towards funeral expenses and transportation. Thus, the award of Rs.2,98,000/- is enhanced to Rs.5,30,000/-, break-up as follows -

(1) Loss of income	...	Rs.4,80,000/-
(2) Loss of love & affection		Rs. 35,000/-
(3) Funeral expenses and Transportation charges	..Rs.	15,000/-
Total		... Rs.5,30,000/-
		=====

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

5. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

6. Though the appeal has been preferred by the transport corporation against the award of Rs.2,98,000/-, re-appreciating the evidence on record, invoking Order 41 Rule 33, this Court, suo motto enhances the compensation to Rs.5,30,000/-, in an endeavour to award a just compensation, even in the absence of appeal / cross objection filed by the respondents/claimants.

7. The appellant is directed to deposit the entire amount awarded by this Court, alongwith interest and costs, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the first respondent/claimant is permitted to withdraw a sum of Rs.5,00,000/- alongwith proportionate interest and costs and the 2nd respondent/claimant is permitted to withdraw a sum of Rs.30,000/- alongwith proportionate interest and costs.

8. The learned counsel for the respondents/claimants is directed to pay the court fee within a period of two weeks from the date of receipt of a copy of this order failing which the enhanced compensation will not be given to the respondents/claimants. Registry is directed to forward a copy of this order directly to the respondents/claimants, free of cost.

9. Post the matter for compliance on 15.10.2015.

Sd/--
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1.The Subordinate Judge ,
Motor Accident Claims Tribunal,
Gobichettipalayam.

2.The Section Office,
V.R.Section, High Court, Madras

3.Saraswathi
W/O.Devanna Gounder
Vadajalli Thotam,
Kolappalur & Post,
Gopi Taluk,Erode District.

4.Rukkumani
W/O.Karuppana Gounder,
Vadajalli Thotam,
Kolappalur & Post, Gobi Taluk,
Erode District
+1 cc to Mr.S.P.Yuvaraj Vide sr.39486
+1 cc to Mrs.R.T.Sundari vide sr.40096

C.M.A.No.1565 of 2015

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