

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA No.1619 of 2015
and M.P.No.1 of 2015

The Managing Director
Tamil Nadu State Transportation
Corporation Villupuram Limited,
Kancheepuram.

... Appellant /
Respondent

vs.

1.M.Devi
2.Minor M.Samuel

... Respondents/
Petitioners

Rep.by his mother and natural guardian
the first Respondent M.Devi

Prayer :- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the judgment and decree dated 15.06.2012 made in MCOP No.3306 of 2009 on the file of Motor Accident Claims Tribunal, V Judge, Small Causes Court at Chennai.

For Appellant : Mr.S.Sairaman
For Respondents : Mr.K.Varadakamaraj

J U D G M E N T

The appeal has been preferred by the transport corporation against the award of Rs.10,64,000/- as compensation to the respondents /claimants for the death of one Muniyandi aged about 34 years, a mechanic alleged to be earning a sum of Rs.12,000/- per month, who died in the accident occurred on 17.09.2009.

2. Heard Mr.S.Sairaman, learned counsel appearing for the appellant and Mr.K.Varadha Kamaraj, learned counsel appearing for the respondents/claimants.

3. Even though the claimants examined PW3, employer of the deceased and marked salary certificate Ex.P6 to show that he was earning about Rs.12,000/- per month, the tribunal took Rs.8,000/- and deducted 1/3rd towards personal expenses and adopted multiplier 16 and determined the loss of income at Rs.10,24,128/- and including all

other amounts, awarded a sum of Rs.10,64,000/- as compensation. The tribunal, as per Ex.P6 and PW3 - doctor's evidence, determined the monthly income at Rs.8,000/-, even though the salary certificate speaks about Rs.12,000/- as the monthly income of the deceased. The said determination of Rs.8,000/- cannot be said to be on the higher side .

4. As contended by Mr.Varadha Kamaraj, learned counsel for the respondents/claimants, no amount has been added towards future prospects to the said income determined by the tribunal. Rs.8,000/- awarded by the tribunal as monthly income is as per the dictum laid down by the Hon'ble Supreme Court in Syed Sadiq Etc vs Divisional Manager, United India Ins. Co. reported in 2014 (1) TN MAC 459 (SC) and therefore this Court determines the monthly income at Rs.8,000/- including future prospects. $1/3^{\text{rd}}$ was rightly deducted by the tribunal towards personal expenses as the family consists of two membes. However, as per Ex.P3, post mortem certificate, the age of the deceased was 37 years whereas the tribunal has wrongly applied multiplier 16 and the correct multiplier is 15. Thus, the loss of income is calculated as follows -

Rs.8,000 Less $1/3$ = Rs.5,334 x 12 x 15 = Rs.9,60,120/-

5. Only a sum of Rs.10,000/- is awarded towards loss of consortium to the 1st respondent, the wife of the deceased. She has lost her husband at the age of 30 years. Loosing husband itself is very painful, that too at the age of 30 years. Following the judgment of the Hon'ble Supreme Court in Rajesh & Ors. vs. Rajbir Singh & ors. reported in 2013 (3) CTC 883 , a sum of Rs.1,00,000/- is hereby awarded towards loss of consortium. Rs.20,000/- awarded towards loss of love & affection to the respondents is very low. Since the 2nd respondent was aged 2 years at the time of accident, the loss of love & affection, care and guidance by the father cannot be compensated by means of money and therefore a sum of Rs.20,000/- awarded by the tribunal is hereby enhanced to Rs.70,000/-. Similarly, no amount was awarded towards transportation and hence a sum of Rs.10,000/- is awarded under this head. However, Rs.10,000/- awarded towards funeral expenses is confirmed. Thus, the amount of Rs.10,64,000/- awarded by the tribunal is hereby enhanced to Rs.11,50,120/-, rounded off to Rs.11,50,000/-, break-up as follows -

(1) Pecuniary loss	...	Rs. 9,60,120/-
(2) Loss of consortium	...	Rs. 1,00,000/-
(3) Loss of love & affection	...	Rs. 70,000/-
(4) Funeral expenses	...	Rs. 10,000/-
(5) Transportation	...	Rs. 10,000/-

Total	...	Rs.11,50,120/-
=====		

Rounded off to Rs.11,50,000/-.

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

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

7. Though the appeal has been preferred by the transport corporation, this court, re-appreciating the evidence on record and applying the latest law of the Hon'ble Supreme Court, suo motto enhances the compensation from Rs.10,64,000/- to Rs.11,50,000/-, invoking Order 41 Rule 33 in an endeavour to award a just compensation, even in the absence of any appeal / cross objection filed by the respondents/claimants.

8. The appellant 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 1st respondent/claimant is permitted to withdraw Rs.6,00,000/- alongwith proportionate interest and costs. The 2nd respondent/claimant being minor is entitled to a sum of Rs.5,50,000/- alongwith proportionate interest and costs. The tribunal is directed to deposit the share of the minor claimant in Indian Bank, High Court Branch, Chennai in an interest bearing Fixed Deposit scheme, till he attains majority. In the event of failure on the part of the appellant/Transport Corporation to deposit the entire award amount alongwith interest 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. 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.

10. Post the matter for compliance on 15.10.2015.

Sd/-
Assistant Registrar(CO)
dt. 07.08.15

Substituted to the order
dt.23.07.2015

//True Copy//
Sd/-
Assistant Registrar(CO)
dt. 25.09.15

Sub Assistant Registrar

To

1. The V Judge,
Small Causes Court
Motor Accident Claims Tribunal,
Chennai.
2. The Managing Director,
Tamil Nadu Staff Transport,
Corporation,Villupuram Ltd,
Kancheepuram.
3. The fincial Advisor,
Tamil Nadu staff Transport corporation,
Villupuram Ltd,
Kancheepuram.
4. The Chief Acccounts Officer,
Tamil Nadu Staff Transfor Corporation,
villupuram Ltd,
Kancheepuram.
- 5. The Manager, Indian Bank,
High Court Branch, Chennai.**
- 6. The Section Officer, Judicial Posting,
High Court, Madras 104.**

+1 cc to Mr.S.Sairaman,Advocate (SR.37652)
+1 cc to Mr.K.Varadakamaraj, Advocate (Sr.37401)

To be Substituted to the
already despatched on
25.08.2015

MSM(co)
cp 11.08.2015
EU 25.09.2015

CMA No.1619 of 2015

सत्यमेव जयते

WEB COPY