IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2015

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THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 1622 of 2015

&

M.P. No. 1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation,
Villupuram Division (III),
Ponnerikarai,
Kancheepuram,
(amended as per order in
M.P. No. 1060/13, dated 14.06.2013) ..Appellant/Respondent

Vs.

1. Pachaiyammal
2. P. Sekar ..Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 21.03.2014 passed in M.C.O.P. No. 2201 of 2012 by the Motor Accidents Claims Tribunal (IV Small Causes Court), Chennai.

For Appellant :: Mr.K.J. Sivakumar

For Respondents :: Mr.Dineshkumar

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. 1,40,000/- passed by the Motor Accidents Claims Tribunal (IV Court of Small Causes), Chennai, for the death of one Palayathan, father of the respondents herein, aged about 60 years, self-employed and alleged to be earning about Rs.10,000/- per month, in the accident, which occurred on 11.11.2011.

2. Heard Mr.K.J. Sivakumar, learned counsel for the appellant and Mr.Dineshkumar, learned counsel for the respondents.

3. The only question to be decided is with regard to the quantum of compensation.

4. The Tribunal, took Rs.3500/- as the monthly income of the deceased; deducted 50% towards "Personal Expenses" and adopted multiplier 5 to arrive at Rs.1,05,000/- towards "Loss of Income". The Tribunal also awarded other amounts under conventional heads and totally, a sum of Rs.1,40,000/- was awarded as compensation.

5. Though Mr.K.J. Sivakumar, learned counsel for the appellant would strenuously argue that the amount awarded by the Tribunal is on the higher side, it is seen that the Tribunal only determined Rs.3500/- as the monthly income of the deceased when it would have been impossible to get any manual labour for Rs.3500/- per month during the year 2011. In any event, this Court is not inclined to enhance the monthly income determined by the Tribunal and the sum of Rs.3500/- fixed as monthly income is confirmed.

6. However, having fixed the monthly income at Rs.3500/-, the Tribunal need not have deducted 50% towards "Personal Expenses". Hence, the same is set aside and instead, one-third deduction is made and "the monthly contribution of the deceased " is determined as:

Monthly Income	::	Rs.3500/-
Less: One-third deduction towards "Personal Expenses"	::	Rs.3500/- (-) 1/3 (Rs.3500/-)
Monthly Contribution of the deceased	::	Rs.2333/-

7. The appropriate multiplier for the age of 60 years is 9. But, the Tribunal erroneously adopted multiplier 5. Hence, adopting the correct multiplier for 60 years, "Loss of Income" is calculated thus:

Loss of Income :: Rs.2333 x 12 x 9
:: RS.2,51,964/-

The sum of Rs.20,000/- awarded by the Tribunal towards "Loss of love and affection" is too low and the same is enhanced to Rs.30,000/-. The sum of Rs.15,000/- awarded towards "Funeral Expenses" is reasonable and the same is confirmed. In all, a sum of Rs. 2,96,964/- rounded off to Rs.3,00,000/- is payable as compensation to the respondents/claimants. The rate of interest awarded by the Tribunal @ 7.5% per annum remains unaltered.

8. Though the appeal has been preferred by the Transport Corporation, as against the award of Rs. 1,40,000/-, this Court, suo motu, has enhanced the compensation to the tune of Rs.3 lakhs, invoking Order 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.

9. 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 eight weeks from the date of receipt of a copy of this order, On such deposit being made, the claimants are permited to withdraw their respective shares, as per the apportionment of the Tribunal, within a period of one week thereafter. The claimants shall pay additional court-fee for the enhanced amount, if any.

10. In the result, the Civil Miscellaneous Appeal is dismissed and the award of the Tribunal, to the tune of Rs.1,40,000/- is enhanced to Rs.3,00,000/- with interest @ 7.5% per annum. No costs. Connected M.P. is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
The MACT (IV Court of Small Causes),
Chennai.

+1 cc to Mr.K.J.Sivakumar Advocate sr.37465

C.M.A. No. 1622 of 2015

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