

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.07.2015

Coram :

The Hon'ble Mr.Justice N.KIRUBAKARAN

C.M.A.No.1667 of 2015
and M.P.No.1 of 2015

The Managing Director
Tamil Nadu State Transport
Corporation Ltd.,
Villupuram.

.... Appellant / Respondent

vs

1.Kalaimathy
2.Minor Kayalvizhi
3.Minor Velvizhi
4.Minor Gajendran
(Minor 2 to 4 are represented
by guardian Mother Kalaimathy)

... Respondents/Petitioners

Civil Miscellaneous Appeal filed u/s 173 of Motor Vehicles Act against the judgment and decree passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate, Cuddalore) in MCOP No.150/2009 dated 19.06.2014.

For Petitioner : Mr.P.Paramasivados

For Respondents : Mr.D.S.Thirumavalavan

J U D G M E N T

The appeal has been preferred by the Transport Corporation against the award of Rs.4,44,500/- as compensation to the respondents/claimants for the death of one Rajendran aged about 55 years, a building worker alleged to be earning about Rs.6,000/- per month who died in the accident occurred on 26.01.2008.

2. Heard Mr.P.Paramasivados, learned counsel appearing for the appellant/transport corporation and Mr.D.S.Thirumavalavan, learned counsel appearing for the respondents/claimants.

3. Mr.P.Paramasivadosh would strenuously argue that for a 59 years old deceased, the tribunal wrongly determined the monthly income at Rs.4,500/- and seeks for reduction of the compensation amount. However, it is very difficult to get a manual labour for less than Rs.6,000/-, that too in the year 2008. The deceased is stated to be working as a building worker which is proved by Ex.P7, letter given by the Labour Society, Cuddalore. Moreover, the deceased has got three children and therefore he would have worked and earned not less than Rs.6,000/- which is in consonance with judgment of 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.6,000/-, as rightly fixed by the tribunal. The size of the family is four and hence following the judgment of the Hon'ble Supreme Court in Sarla Verma & Ors vs Delhi Transport Corpn. reported in 2009 (2) TANMAC 1, 1/4th has to be deducted and accordingly, the loss of income would be Rs.4,500/-. (Rs.6000 less 1/4th). As per Ex.P4, death certificate, the age of the deceased is 59 years and therefore, the correct multiplier 9 was rightly adopted by the tribunal. The loss of income to the family is thus derived as follows -

$$\text{Rs.6000} \times \frac{3}{4} \times 12 \times 9 = \text{Rs.4,86,000/-}$$

4. The first respondent/wife was aged 45 years at the time of accident and therefore for loss of consortium throughout her life, a sum of Rs.1,00,000/- is awarded following the judgment of the Hon'ble Supreme Court in Rajesh & Ors. vs. Rajbir Singh & ors. reported in 2013 (3) CTC 883. Since Rs.1,00,000/- has been awarded towards loss of consortium, the amount of Rs.5,000/- awarded by the tribunal towards loss of estate is deleted. Similarly, the minor children, i.e. respondents 2 to 4 lost their father's love, affection and care, even before they attained majority and therefore Rs.40,000/- awarded by the tribunal towards loss of love & affection is hereby enhanced to Rs.1,00,000/-. Similarly, Rs.5,000/- each awarded towards Ambulance and Funeral expenses are low and the same is enhanced to Rs.20,000/- together. Thus, the award of Rs.4,44,500/- awarded by the tribunal is hereby enhanced to Rs.7,06,000/-, rounded off to Rs.7,00,000/-, break-up as follows-

(1) Loss of income	...	Rs.4,86,000/-
(2) Loss of consortium	...	Rs.1,00,000/-
(3) Loss of love & affection	...	Rs.1,00,000/-
(4) Ambulance & Funeral expenses	...	Rs. 20,000/-

Total ... Rs.7,06,000/-

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Rounded off to Rs.7,00,000/-

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.4,44,500/-, re-appreciating the evidence on record, invoking Order 41 Rule 33, this Court, suo motto enhances the compensation to Rs.7,00,000/-, 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.2,50,000/- alongwith proportionate interest and costs and the respondents/claimants 2 to 4 are each entitled to a sum of Rs.1,50,000/-. The tribunal is directed to deposit the share of the minor claimants/respondents 2 to 4, in any one of the Nationalised Bank in an interest bearing fixed deposit till they attain majority.

8. The claimants are 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/-

सत्यमेव जयते
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rgr

To

1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Cuddalore.

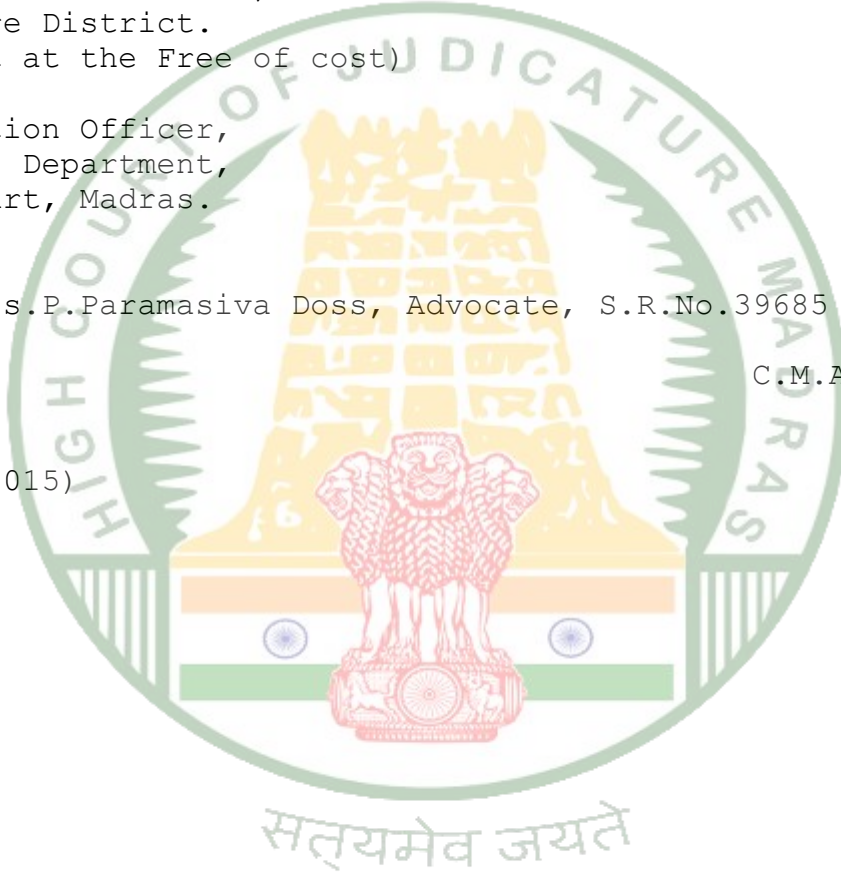
2.Mrs.Kalaimathy,
Mariamman Koil Street,
Puliyankudi Post,
Kumartachi TK.,
Kattumannarkudi Taluk,
Cuddalore District.
(Send it at the Free of cost)

3.The Section Officer,
Judicial Department,
High Court, Madras.

+1cc to M/s.P.Paramasiva Doss, Advocate, S.R.No.39685

C.M.A.No.1667 of 2015

RSI (CO)
CA(25/08/2015)



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