

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2015

CORAM:

THE HON'BLE Mr.JUSTICE S.MANIKUMAR

and

THE HON'BLE Mr.JUSTICE G.CHOCKALINGAM

C.M.A.No.2361 of 2015

and

M.P. No.1 of 2015

Tamil Nadu State Transport Corporation,
rep. by its Divisional Manager,
MTP Road, Coimbatore. Appellant/2nd Respondent

Vs.

1. Alamelu Mangai
2. Deepasiri, minor
(rep by her mother and
Guardian Alamelu Mangai)
3. C.S.Loganayagi
4. Nehruji
(R-4 given up Respondents/Petitioners and 1st
Respondents

Civil Miscellaneous Appeal, filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree, dated 17.04.2015, passed in M.C.O.P.No.2157 of 2012, on the file of Motor Accidents Claims Tribunal (Special Subordinate Judge, Coimbatore).

For Appellant : Mr.V.Udayakumar

JUDGMENT

(Order of the Court was made by S.MANIKUMAR, J.)

Quantum of compensation of Rs.16,70,000/-, with interest, at the rate of 7.5% per annum, from the date of claim till the date of deposit, ordered to wife aged about 26 years, minor daughter aged about 5 years and mother aged about 73 years, is challenged in this appeal, by the Tamil Nadu Transport Corporation, Coimbatore, represented by its Divisional Manager,

on the ground that the Claims Tribunal has erred in fixing a higher monthly income of Rs.8000/-, without any basis.

2. In addition to the above, Mr. V. Udayakumar, learned counsel for the Transport Corporation submitted that addition of 50% under the head 'loss of future prospects' ought not to have been made by the Claims Tribunal, for the reason that there is no concrete evidence of permanent employment.

3. We have heard learned counsel for the appellant and perused the material available on record.

4. According to the claimants, the deceased was aged about 37 years and as an employee of M/s.S.K.P. Traders Company, earned Rs.15,000/- per month. In order to prove employment and monthly income, they have marked Ex.P5 dated 07.01.1991 - Certificate of four wheeler motor vehicles repairing, of the deceased, given by Sri Avinashilingam Shrami Vidyapeeth, Coimbatore. Though the respondents have claimed that the deceased earned Rs.15,000/- per month, there is no clear proof. However, taking note of the technical qualification, namely, four wheeler motor vehicles repairing, duly supported by Ex.P5 Certificate and considering the age of the deceased, 37 years, as per the entry in Ex.P10 - Driving Licence of the deceased, the Tribunal has fixed the monthly income as Rs.8000/-. Thereafter, following the decision in Rajesh and Ors., v. Rajbir Singh Ors., reported in 2013 (3) CTC 883, the Claims Tribunal has added 50% of the income towards future prospects and applying 15 multiplier, computed the 'loss of dependency' as Rs.14,40,000/-. In addition to the above, the Claims Tribunal has awarded Rs.1,00,000/- towards 'loss of consortium', Rs.1,00,000/- under the head 'loss of love and affection', Rs.25,000/- towards 'funeral expenses' and Rs.5000/- under the head 'loss of estate'. Altogether, the Claims Tribunal has awarded Rs.16,70,000/-, with interest, at the rate of 7.5% per annum, from the date of claim till the date of deposit, to the wife aged about 26 years, minor daughter aged about 5 years and mother aged about 73 years.

5. To provide food, shelter, clothing and to meet out the expenses towards basic amenities, one may require a reasonable income. The accident has occurred on 26.11.2010. Considering the consumer price index, inflation and other economic factors, which decide the cost of living, coupled with the technical qualification of the deceased, Rs.8000/- fixed as monthly income cannot be said to be on the higher side. In V. Mekala vs. M. Malathi and anr., reported in 2014 ACJ 1441, the injured therein was of age 16 and a student of Standard XI. Though there was no fixed income, considering the fact that on account of injuries sustained in the accident, there would be loss of future income, the Hon'ble Apex Court, fixed the monthly

notional income as Rs.10,000/- and also added future prospects. The decision stated supra, would also lend support to the case of the respondents. In the light of the above discussion and decision, we are not inclined to interfere with the quantum of compensation, computed under the head 'loss of Dependency'. Though, the sum of Rs.1,00,000/- awarded under the head 'loss of consortium' can be justified in terms of the judgement of the Apex Court in Rajesh and Ors., v. Rajbir Singh Ors., reported in 2013 (3) CTC 883, as cited supra, we find that the Claims Tribunal has awarded a lesser compensation under the head 'loss of love and affection' to the minor daughter aged about 5 years and mother aged 73 years. There is no award towards transportation and functional damages. Considering the overall quantum of compensation awarded to the claimant, it cannot be said to be on the higher side, rather, it is low.

6. Accordingly, the award dated 17.04.2015, passed in M.C.O.P. No.2157 of 2012, on the file of Motor Accidents Claims Tribunal (Special Subordinate Judge, Coimbatore) is confirmed. Apportionment is sustained as per the order of the tribunal. The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. No costs.

7. Consequent to the dismissal of the appeal, the appellant-Tamil Nadu Transport Corporation Limited, Coimbatore Division, is directed to deposit the entire award amount, with interest at the rate of 7.5% per annum from the date of claim till the date of deposit and costs, less the amount already deposited, if any, to the credit of MCOP No.2157 of 2012 dated 17.04.2015, on the file Motor Accidents Claims Tribunal (Special Subordinate Judge), Coimbatore, within a period of eight weeks from the date of receipt of a copy of this order. The sum apportioned towards the share of the minor/ 2nd respondent is directed to be invested in any one of the Nationalised Banks under reinvestment scheme, proximate to the residence of the mother/respondent No.1 and renewable thereafter, till she attains majority and Interest accrued on the deposit of the share apportioned to the minor is permitted to be withdrawn by the mother/respondent No.1, once in three months. It is open to the respondents 1 and 3/ the major claimants to seek for disbursement of the award amount, by making necessary applications.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

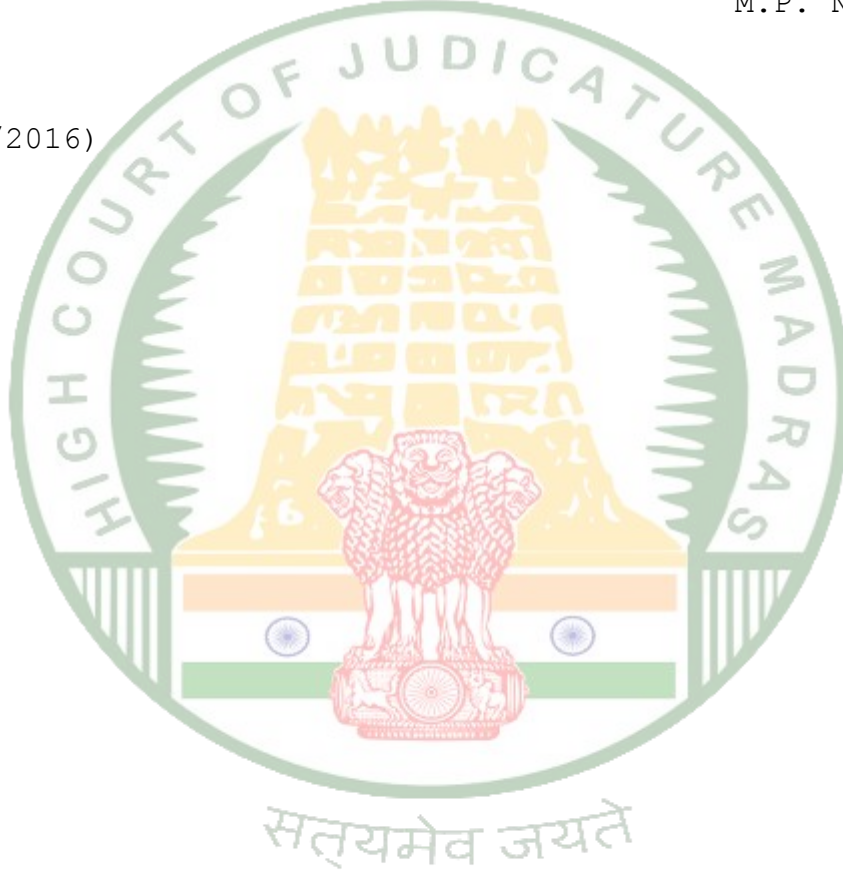
To

1. Motor Accidents Claims Tribunal,
Special Subordinate Judge, Coimbatore

+1cc to Mr.V.Udayakumar, Advocate Sr.58025

C.M.A.No.2361 of 2015
and
M.P. No.1 of 2015

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