

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 05.11.2015

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A.No.2556 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Tamil nadu State Transport Corporation
Limited (Salem),
Region at Dharmapuri,
No.12, Ramakrishna Road,
Salem.

.. Appellant/Respondent

Vs

Tmt.Valarmathi

.. Respondent/Petitioner

Prayer: This Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 27.11.2013, made in M.C.O.P.No.1322 of 2010 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri.

For appellant : Mr.D.Venkatachalam

JUDGMENT

This appeal is filed against the judgment and decree dated 27.11.2013, made in MCOP No.1322 of 2010 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri.

2. It is the contention of the learned counsel appearing for the appellant - Transport Corporation that on 23.04.2010, when the driver of the appellant transport Corporation was driving the bus slowly by following the traffic rules, near Dharmapuri, the deceased minor aged about 13 years drove his cycle with pillion rider in center of the road and on seeing this, though the driver of the bus stopped, the cyclist dashed against the bus and thereby he fell down, which has caused grievous injuries to them. It is further submitted that the said accident had occurred only due to the negligent act of the cyclist and not on the part of the appellant's driver. However, without taking note of such fact, learned Tribunal, by relying upon a judgment of the Hon'ble Apex Court in the case of Kishan Gopal v. Lala reported in (2013 (2) TN MAC 358(SC)),

fixed the notional income of the deceased as Rs.30,000/- and applied the multiplier 15, especially when the deceased was aged about only 13 years and was a non-earning member. With this submission, he submitted that a sum of Rs.4,50,000/- (Rs.30000 x 15) awarded by the tribunal towards loss of dependency may be set aside.

3. This Court is unable to accept the above said contention of the learned counsel for the appellant, for, in the case on hand, the deceased was a minor, aged about 13 years and studying VI standard in Naickankottai Government High Court at the time of accident that took place on 23.04.2010. Such fact was also supported by Ex.P5 - educational certificate issued by the Headmaster of the said school. At the time of accident, the deceased mother was aged about 39 years old. Therefore, the Tribunal by relying upon a judgment of the Hon'ble Apex Court in Kishan Gopal's case (cited supra), awarded a sum of Rs.4,50,000/- (30000 x 15) towards loss of dependency. From the said judgment of the Hon'ble Apex Court, it is seen that the deceased minor therein was aged about 10 years old at the time of accident and that the mother of the deceased therein was 36 years, therefore, by taking note of such fact, Hon'ble Apex Court, by arriving Rs.30,000/- p.a. as notional income and adopting the multiplier of 15 on the basis of Sarla Verma v. Delhi Transport Corporation ((2009) 6 SCC 121), awarded a sum of Rs.4,50,000/- (30000 x 15) towards loss of dependency. Therefore, in the case on hand also, as stated above, since the deceased minor was 13 years and studying VI standard, the Tribunal has awarded a sum of Rs.4,50,000/- (30000 x 15) towards loss of dependency. Therefore, in my view, such a well reasonable compensation awarded by the Tribunal cannot be interfered with, accordingly, the same is hereby confirmed.

4. That apart, the Tribunal, by taking note of the above said judgment of the Hon'ble Apex Court, awarded a sum of Rs.50,000/- towards loss of love and affection, transport expenses and funeral expenses. In my view, the said amount awarded by the Tribunal is a very meagre one, for, in the said judgment of the Hon'ble Apex Court, the accident took place in the year 1992, whereas in the case on hand, the accident had occurred on 23.04.2010, therefore, the Tribunal ought to have taken note of the rupee value, which has gone up now drastically from the year 1992, thus, this Court deems fit to modify the compensation on the said heads. Accordingly, by taking note of fact that the deceased's mother is left to lurch as her husband also died few years ago and by considering another fact that had the deceased not died in the accident he would have lived for full span of his life and would have contributed substantially to his mother by working hard, this Court, by applying the principles of just and reasonable compensation, hereby awards a

sum of Rs.50,000/- towards loss of love and affection, Rs.5,000/- towards transport expenses and Rs.25,000/- towards funeral expenses. The details of the modified compensation as per the above discussions is as under:-

Loss of dependency	-- 4,50,000
Loss of love and affection	-- 50,000
Transport expenses	-- 5,000
Funeral expenses	-- 25,000
Total	-- Rs.5,30,000/-

5. In view of the above, the appeal fails and the same is dismissed. The appellant Transport Corporation is directed to deposit the entire award amount to the credit of MCOP No.1322 of 2012 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the entire award amount along with accrued interest therein, by moving appropriate application. No Costs. M.P.No.1 of 2015 is closed.
rkm

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The Principal District Judge,
(Motor Accident Claims Tribunal)
Krishnagiri.

+ 1 cc to Mr.D.Venkatachalam, Advocate, SR 61404

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