

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2771 of 2015

The Managing Director  
Tamil Nadu State Transport Corporation  
Periya Melakuparai  
Tiruchirapalli

..Appellant/1st Respondent

-Vs-

1. Minor Vanamayil  
D/o Radha  
Minor represented by next friend  
and her father Radha, S/o Natarajan
  2. Radha, S/o Natarajan
  3. Senthamil Selvi, W/o Anjampuli
- ..Respondents/Petitioners/  
2nd Respondent

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 29.4.2013 made in M.C.O.P.No.331 of 2007 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Ariyalur.

For Appellant :: Mr.D.Venkatachalam

For Respondents :: Mr.T.Gobinath for R1 & R2

JUDGMENT

This civil miscellaneous appeal has been directed against the impugned judgment and decree passed by the Motor Accidents Claims Tribunal, Subordinate Judge, Ariyalur in M.C.O.P.No.331 of 2007 dated 29.4.2013, awarding a sum of Rs.7,50,000/- as the total compensation together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation.

2. Learned counsel for the appellant-Transport Corporation heavily contended that in the accident that took place on 13.5.2007 at about 5.00 A.M., near Periyathukurichi bus stop on the Vridhachalam-Jayamkondam road, the victim aged about 23 years, being a bachelor, died on the spot, therefore, the Tribunal, while fixing the monthly income of the deceased at Rs.4,500/- ought to have deducted 50% of the said income towards the personal and living expenses by applying the ratio laid down by the Apex Court in Sarla Verma's case reported in

2009 (2) TN MAC 1 (SC). He further submitted that the quantum of compensation has been hiked wrongly, hence the same has to be reduced considerably.

3. Opposing the above prayer, the learned counsel for the respondents/claimants 1 & 2 submitted that although it was contended by the learned counsel for the appellant that the Tribunal has committed a mistake in deducting one-third of the monthly income of the deceased towards the personal and living expenses, the Tribunal, on the other hand, has committed a serious mistake in not applying the principles laid down by the Apex Court in Sarla Verma's case. As per the judgment in Sarla Verma's case, since the deceased was aged about 23 years at the time of accident that took place on 13.5.2007, the proper multiplier would be 18. But the Tribunal has wrongly adopted the improper multiplier, viz., 17 in this case. Secondly, the compensation under the loss of estate has been completely overlooked. When the mother of the deceased died even prior to the unfortunate accident that took place on 13.5.2007 and the father along with his minor daughter have been put to great prejudice, since the deceased was the sole bread winner of the family, the Tribunal, while considering the case of the claimants for awarding a just and proper compensation, ought to have granted at least some reasonable amount towards the loss of estate. But unfortunately, the Tribunal has completely overlooked to award any amount towards loss of estate, therefore, even if the amount is re-adjusted by applying the proper multiplier of 18 instead of the wrong multiplier viz., 17 adopted by the Tribunal and also apportioning some reasonable amount towards the loss of estate, since the sole bread winner of the family was killed in the accident leaving behind his minor sister and father aged about 15 and 57 years at the time of accident, the impugned award shall not be interfered with. It was also further submitted that no amount has been awarded towards transportation also.

4. This Court fully agrees with the submissions made by the learned counsel for the respondents 1 & 2. The reason is that when the deceased was aged about 23 years at the time of accident that took place on 13.5.2007, it is not known how the Tribunal has overlooked the Schedule provided under the Motor Vehicles Act or the ratio laid down by the Apex Court in Sarla Verma's case reported in 2009 (2) TN MAC 1 (SC), which mandates that the proper multiplier would be 18 for the age group of 21 to 25, therefore, the Tribunal has committed a serious error in adopting a wrong multiplier, instead of 18. This Court is also able to see one another serious mistake committed by the Tribunal in not awarding any amount towards the loss of estate. Indeed the deceased, being the sole bread winner of the family, on the date of the accident, had left behind the minor sister and age-old father to eke out the livelihood on their own. Therefore, in my considered opinion, the Tribunal ought to have provided some reasonable amount towards the loss of estate. Hence, looking at the case of the claimants, the impugned award

does not call for any interference. Accordingly, the appeal fails and it is dismissed. It is also brought to the notice of this Court by the learned counsel for the parties that the award amount has not been deposited till date, except the statutory amount of Rs.25,000/-. Therefore the appellant is hereby further directed to deposit the entire balance amount along with interest to the credit of the M.C.O.P.No.331 of 2007 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Ariyalur within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is open to the claimants to withdraw the entire amount together with the accrued interest by moving appropriate application before the Tribunal. Consequently, M.P.No.1 of 2015 is also dismissed. No costs.

sd/-

Assistant Registrar (Cs-VII)

/TRUE COPY/

Sub-Assistant Registrar

ss

To

1. The Motor Accidents Claims Tribunal  
Subordinate Judge  
Ariyalur.

+1 CC to MR.D.Venkatachalam Advocate. SR.NO.66779

+1 CC to MR.T.Gobinath Advocate. SR.NO. 66677

Copy To:

The Section Officer,  
VR Section, High Court, Madras

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CO-AK

JD 08/02/2016

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