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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2015

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THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.M.A. No. 42 of 2015

&

M.P. No. 1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Limited,
No.3/137, Salamedu,
Vazhuthareddy,
Villupuram - 605 602.

...Appellant/Respondent

Vs.

1. Panchavarnam
2. Uma Mageswari

...Respondents/Claimants

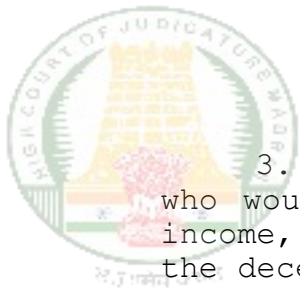
Prayer: Civil Miscellaneous Appeal filed under Section 173 of the motor Vehicles Act 1988 as against the judgment and decree dated 28.03.2014 passed in M.C.O.P. No. 15 of 2012 on the file of Motor Accidents Claims Tribunal, Principal District Judge, Villupuram.

For Appellant : Mr.K.J. Sivakumar

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. 5,55,000/-, in favour of the claimants/respondents herein, for the death of one Krishnamurthy, in the accident which occurred on 25.12.2011, when he was hit by a bus belonging to the appellant Corporation, driven rashly and negligently, while he was standing on the road.

2. The legal heirs of the deceased filed the claim petition before the Tribunal seeking compensation to the tune of Rs. 10 lakhs. On enquiry, the Tribunal found that the accident occurred because of the rash and negligent driving by the driver of the bus and awarded a sum of Rs.5,55,000/-. The said award is questioned on the ground of quantum by the Transport Corporation.



3. Heard Mr.K.J. Sivakumar, learned counsel for the appellant, who would submit that in the absence of any proof regarding monthly income, the Tribunal erred in fixing Rs.4500/- as monthly income of the deceased.

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4. However, the said contention is not acceptable, taking into consideration, the fact that the occurrence of the accident was on 25.12.2011. In 2011, it was very difficult to get a job done for a sum of Rs.4500/-. The Honourable Apex Court, in the judgment rendered in Syed Sadiq V. Divisional Manager, United India Insurance Co. Ltd reported in 2014 (1) TN MAC 459 (SC), fixed Rs.6500/- as the monthly income for a vegetable vendor, who sustained injuries in the accident, which took place in 2008. Whereas, in the case on hand, the date of the accident is 25.12.2011. Therefore, the monthly income determined by the Tribunal is very low and the same is enhanced to Rs.6500/-. Since the family of the deceased consists of two members, following the judgment of the Honourable Apex Court rendered in Smt. Sarla Verma V. Delhi Transport Corporation and others reported in 2009 (2) TN MAC (1) SC, one-third deduction has to be made towards "personal expenses". Further, as per the said judgment, the appropriate multiplier, to be adopted, based on the age of the deceased, namely, 45 years, is 14. Therefore, multiplier 15 adopted by the Tribunal is reduced to 14. Accordingly, taking the monthly income as Rs.6500/-, applying one-third deduction and multiplier 14, "Loss of Income" is calculated as follows:

Loss of Income :: (Rs.6500/- (-)1/3(Rs.6500/-)) x 12 x 14
:: Rs.7,27,944/-

5. It is really shocking to note that the Tribunal has awarded only a sum of Rs.10,000/- towards "Loss of Consortium" to the 1st respondent/wife and Rs.5000/- towards "Loss of love and affection" to the 2nd respondent/daughter. As per the judgment of the Honourable Apex Court rendered in Rajesh and others V. Rajbir Singh and others reported in 2013 (3) CTC 883, at least a sum of Rs.1 lakh should be awarded towards "Loss of Consortium". Accordingly, Rs.1 lakh is awarded under the said head. The sum of Rs.5000/- awarded towards "Loss of love and affection" to the 2nd respondent is enhanced to Rs.50,000/-.

6. Besides, for reasons best known to the Tribunal, no amount has been awarded even under the conventional heads, namely, "Transportation Charges" and "Funeral Expenses". Hence, a sum of Rs.10,000/- is awarded towards "Transportation Expenses" and Rs.15,000/- is awarded towards "Funeral Expenses". Hence, the award of the Tribunal, to the tune of Rs.5,55,000/- is enhanced to Rs.9,02,944/- rounded off to Rs.9,00,000/- together with interest @ 7.5% per annum.



7. Though the appeal has been filed by the Transport Corporation against the award of the Tribunal, this Court, suo motu, has enhanced the compensation to the tune of Rs.9 lakhs, following 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 and even in the absence of the respondents, has enhanced the compensation.

8. The appellant Transport Corporation is directed to deposit the entire amount along with interest and costs, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order failing which the Managing Director of the Transport Corporation shall appear before this Court on 2nd March, 2015.

9. The Civil Miscellaneous Appeal is dismissed. No costs. Connected M.P. Is closed.

10. Post on 2.3.2015 for reporting compliance.

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08.01.2015

This matter having been listed order the caption for reporting compliance on 04.03.2015 in pursuant to the order of this court dated 08.01.2015 and made herein in the presence of the aforesaid counsel the court made the following order;

The above C.M.A. has been listed today "For Reporting Compliance".

2. By Judgment dated 08.01.2015, passed by this Court in the above appeal, the appellant Transport Corporation was directed to deposit the entire award amount along with interest and costs before the Tribunal within six weeks from the date of receipt of a copy of that order;

3. Today, when the appeal is taken up, learned counsel for the appellant submitted that the direction of this Court has been complied with and the same is evidenced by the endorsements made by the Principal District Court, Villupuram, in acknowledgement of the receipt of cheques issued by the Transport Corporation, for the award amount, in the communication sent by the Transport Corporation on 26.02.2015 and 02.03.2015.

4. The Claimants are permitted to withdraw their respective shares, from the deposited amount, as per the apportionment of the tribunal.



5. Since the order of this Court has been complied with, no further orders are necessary.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District Judge,
Motor Accidents Claims Tribunal,
Villupuram.

2. The Managing Director,
Tamilnadu State Transport Corporation
(Villupuram) Ltd.,
No.3/137, Salamedu,
Vazhuthareddy, Villupuram - 605 602.

C.M.A. No. 42 of 2015

GJ(CO)
PSI (12.01.2015)
EU 09.06.2015