

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.496 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam-Division 1) Ltd.,
Railway Station New Road,
Kumbakonam-612 001. Appellant /Ist Respondent

Vs.

1.M.Lakshmi
2.Minor M.Jothi
3.Minor.M.Dharma @ Dharmaraj
(Minors 2 & 3 are rep. by their mother
and guardian first respondent)
4.Santhi
5.The Managing Director,
Tamil Nadu State Transport Corporation,
3/137, Salamedu,
Vazhuthareddy, Villupuram. Respondents /
Petitioners 1 to 4 & 2nd Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act,1988 against the decree and judgment dated 06.03.2014 made in M.C.O.P.No.1683 of 2010 on the file of Motor Accident Claims Tribunal, (Principal District Court), Cuddalore.

For Appellant : Mr. D.Venkatachalam
For Respondents : -

JUDGMENT

This appeal has been preferred by the appellant Transport Corporation against the award of Rs.8,16,000/-, for the death of one Manickam, aged about 45 years, a mason, alleged to be earning Rs.10,000/- per month, in the accident, which occurred on 07.02.2011.

2. Heard Mr.D.Venkatachalam, learned counsel appearing for the appellant. The only question is to be decided with regard to quantum of compensation.

3. The learned counsel appearing for the appellant would argue that the Tribunal has erroneously taken Rs.6,000/- as monthly income in the absence of any positive proof, the said determination cannot be said to be on the higher side, which is inconsonance with the judgment of the Hon'ble Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TN MAC 1. Therefore, the said determination cannot be found fault with. However, 30% was not added as future prospects. As per the Judgment of the Hon'ble Supreme Court in SARALA VERMA(supra), 30% is added, as the deceased was aged about 45 years, towards future prospects and the monthly income would be Rs.6000/- + 30% = Rs.8,000/-.

4. As the family consist of 4 members, as per the judgment of Hon'ble Supreme Court in SARALA VERMA(supra), $1/4^{\text{th}}$ is required to be deducted towards personal expenses of the deceased. $8000 / 1/4^{\text{th}} = 6000$. The age of the deceased was 45, the Tribunal rightly adopted appropriate multiplier 14 and the loss of income would be determined as follows:-

$$\text{Rs.6000/-} + 30\% - 1/4^{\text{th}} \times 12 \times 14 = \text{Rs.10,08,000/-}.$$

5. The first respondent/wife was awarded only a sum of Rs.10,000/- towards loss of consortium, which is required to be enhanced to Rs.1,00,000/- as per the judgment of the Hon'ble Supreme Court in RAJESH AND OTHERS VS. RAJBIR SINGH AND OTHERS reported in 2013 (3) CTC 883. Further, only a sum of Rs.10,000/- was awarded towards loss of love and affection to the claimants 2 to 4 and the same is very low and therefore the said amount is enhanced to Rs.60,000/-. Rs.10,000/- was awarded towards funeral expenses and Rs.10,000/- was awarded towards transportation are all reasonable and the same is confirmed. Therefore, a sum of Rs.8,16,000/- awarded by the Tribunal is enhanced to Rs.11,88,000/- and the appeal filed by the Transport Corporation is suo-motu even in the absence of any appeal/cross appeal by the respondents/claimants, re appreciating the evidence on record and applying the current law and to the facts of the case, invoking under Order 41 Rule 33 of the Civil Procedure Code. Moreover, the provision of Motor Vehicles Act are beneficial in nature and in an endeavor to award just and reasonable compensation of Rs.8,16,000/- is enhanced to Rs.11,88,000/- along with interest at the rate of 6% p.a.

6. From the above said award of Rs.11,88,000/-, the first respondent/wife shall get a sum of Rs.4,00,000/-, 2 and 3rd respondents/claimants shall get a sum of Rs.2,75,000/- each and the

4th respondent/claimant shall get a sum of Rs.2,38,000/-.

7. The appellant Transport Corporation is directed to call the claimants to their office and issue cheque or draft directly to the claimants, except the share of the minors, which shall be deposited in an interest bearing fixed deposit in any one of the Nationalized Bank, till they attained majority, within a period of six weeks from the date of receipt of a copy of this order. Failing which, the Chairman cum Managing Director and Chief Accounts Officer cum Finance Adviser of the appellant Transport Corporation shall appear before this Court on 01.06.2015.

8. In view of the above, the civil miscellaneous appeal is dismissed. No costs. Consequently, connected M.P. is closed.

Sd/-
Assistant Registrar (CS-II)
Dated : 25.03.2015

***Corrected as per the order
of this court dated 07.04.2015
and made herein.**

**Sd/- Assistant Registrar (CS-V)
Dated : 28.04.2015**

//True Copy//

Sub Assistant Registrar

rrg

To

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

To be substituted to the
order already despatched
on 26.03.2015 and made herein

Copy to:-

The Chairman cum
Tamil Nadu State Transport Corporation,
(Kumbakonam-Division 1) Ltd., Railway Station New Road,
Kumbakonam-612 001.

1 cc to Mr.D.Venkatachalam ,Advocate, SR.No.19092

C.M.A.No.496 of 2015

pa(co)

pmk.25.3.2015, UG [CO] PSI 28.04.2015