THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2015

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THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.541 of 2015
and
M.P.No.1 of 2015

1.Ellammal
2.P.Mani ...Appellants/Claimants

Vs.

The Managing Director,
Metropolitan Transport Corporation,
Pallavan Illam, Anna Salai,
Chennai. ...Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act,1988 against the decree and judgment dated 03.01.2012 made in M.C.O.P.No.108 of 2008 on the file of Motor Accident Claims Tribunal, (Principal District Judge), Tiruvallur.

For Appellants : Mrs.Manjula Baskar

For Respondent : Mr.K.S.Suresh

JUDGMENT

This appeal has been preferred by the claimants, aggrieved over the quantum of Rs.3,83,000/- awarded, for the death of their son M.Dhanapal @ Mohan, aged about years, in the accident, which had occurred on 18.11.2007.

2. Heard Mrs.Manjula Baskar, learned counsel appearing for the appellants and Mr.K.S.Suresh, learned counsel appearing for the respondent transport corporation. The only question is to be decided with regard to quantum of compensation.

3. The learned counsel appearing for the appellant would submit that a sum of Rs.4,500/- taken as monthly income is very less and there is no amount awarded towards loss of love and affection and seeks for enhancement of compensation. However, the learned counsel appearing for the respondent transport corporation strenuously oppose the enhancement of compensation.

4. A sum of Rs.4,500/- taken by the Tribunal as monthly income is reasonable and the same is confirmed. However, no amount was awarded towards future prospects. As per 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, considering the age of the deceased at 24 years, 50% is added towards future prospects. The monthly income would be Rs.4,500/- + 50% = Rs.6,750/-.

5. Since the deceased was a bachelor, 50% is required to be deducted towards personal expenses and after deduction, the loss of income would be Rs.6750 / 2 = 3375/-. As per the judgment in SARALA VERMA(supra), the appropriate multiplier to be applied for the age of 24 is 18. Where as, the Tribunal adopted the multiplier at 14 as per the age of the mother of the deceased. As per the judgment of the Hon'ble Supreme Court in AMIT BANU vs. NATIONAL INSURANCE COMPANY LIMITED reported in 2012 (11) SCC 738, the deceased age alone is to be taken into consideration for fixing the multiplier and therefore this Court as state above, fixed the multiplier 18 and the loss of income would be calculated is as follows:-

4500 + 50% - 50% x 12 x 18 = 7,29,000/-

6. The appellants lost their only son and the Tribunal without taking the factor into consideration, erroneously omitted to award any amount towards loss of love and affection and therefore, a sum of Rs.50,000/- is awarded towards loss of love and affection. A sum of Rs.5,000/- awarded towards funeral expenses is very negligible and the same is enhanced to Rs.20,000/-. Therefore, a sum of Rs.3,83,000/- awarded by the Tribunal is enhanced to Rs.7,99,000/- rounded to Rs.8,00,000/- along with interest at the rate of 7.5% p.a.

7. The civil miscellaneous appeal is partly allowed, enhancing the compensation amount from Rs.3,83,000/- to Rs.8,00,000/-. From the above award amount, the appellants/claimants are entitled to get equal share. The respondent Transport Corporation is directed to call the appellants/claimants to their office and issue cheque or draft directly to the claimants, 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 respondent Transport Corporation shall appear before this

Court on 01.06.2015. No costs. Consequently, connected M.P. is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

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

1 CC to Mr.D.Baskar, Advocate SR.No. 15471

1 CC to Mr.K.S.Suresh, Advocate SR.No. 15552

C.M.A.No.541 of 2015

SV (CO)
PSI (17.04.2015)