

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.603 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Kanchipuram

... Appellant/ Respondent

Vs.

1.R.Shanmugam
2.Deivanayagi

... Respondents/ Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree passed by the Motor Accident Claims Tribunal, (Sub Court) Kancheepuram in M.C.O.P.No.451 of 2002 dated 12.07.2013 for awarding compensation.

For Appellant : Mr.S.Sairaman

For Respondent 1: Mr.C.Prabakaran

JUDGMENT

This appeal has been preferred by the Transport Corporation against the award of Rs.3,75,000/- as compensation for the death of one Maya @ Mohana, aged about 7 years, a student in the accident occurred on 06.03.2002.

2.Heard Mr.S.Sairaman, learned counsel appearing for the appellant and Mr.C.Prabakaran, learned counsel appearing for the respondents/claimants.

3. The only question is to be decided with regard to the quantum of compensation awarded by the Tribunal.

4. It is contended by the appellant that the amount awarded is on the higher side and therefore the compensation amount has to be reduced.

5. The Tribunal has taken monthly income at Rs.15,000/- and adopted multiplier 15 determined the loss of income at

Rs.2,25,000/- . Similarly Rs.75,000/- was awarded for non pecuniary damages and Rs.75,000/- was awarded towards loss of future expectation of life. Totally a sum Rs.3,75,000/- was awarded. The formula adopted by the Tribunal to determine the compensation is erroneous. In similar circumstances, the Honourable Supreme Court in Kishan Gopal and another Vs. Lala and others reported in 2013 (2) TN MAC 358 (SC) for the death of 10 years old boy, took Rs.15,000/- as notional annual income determined in the second schedule would not reflect correct mandatory value and adopted multiplier according to the age of the mother, and awarded a sum of Rs.5,00,000/-. If this formula is applied, Rs.30,000/- should be taken as notional annual income and according to the age of the mother, the multiplier to be applied is 16 and the loss of income to be determined as Rs.4,80,000/- (Rs.30,000x16). As per the same judgment, a sum of Rs.50,000/- for non-pecuniary damages was awarded by the Hon'ble Supreme Court. Therefore, a sum of Rs.50,000/- is hereby awarded under the same. Totally, a sum of Rs.5,30,000/- is awarded as compensation. The rate of interest awarded by the Tribunal at 7.5% p.a. remains unaltered.

6. Though the appeal has been preferred by the Appellant/Transport Corporation, against the award of Rs.3,75,000/, this Court, suo motu enhance the compensation to a sum of Rs.5,30,000/-. This Court on re-appreciating the evidence on record and following the latest Judgment of the Hon'ble Supreme Court, invoking under Order 41 Rule 33 of C.P.C., enhance the compensation from Rs.3,75,000/- to Rs.5,30,000/-. The respondents/claimants are directed to deposit additional court fee within six weeks from the date of receipt of a copy of this order.

7. The appellant/Transport Corporation is directed to deposit the entire award amount along with interest and costs on or before 18.08.2015, failing which, the Chairman cum Managing Director and Financial Adviser cum Chief Accountant Officer of the Corporation shall appear before this Court on 19.08.2015. On such deposit being made, the respondents/claimants are permitted to withdraw equally the entire award amount along with accrued interest.

8. In the result, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Post the case on 19.08.2015 for compliance.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

kkd

To

1. The Motor Accident Claims Tribunal,
(Subordinate Judge) Kancheepuram.

2. The Chairman cum Managing Director
Tamilnadu State Corporation Ltd.,
Kanchipuram

3. The Financial Adviser cum
Chief Accountant Office of the
Corporation, Kanchipuram

Copy to

1. The Section Officer
VR Section,
High Court, Madras

2. The Section Officer
Judicial Section,
High Court, Madras

3. R. Shanmugam
No.42 Keez Street
Ayyampettai
Kancheepuram Taluk

4. Deivanayagi
No.42 Keez Street
Ayyampettai
Kancheepuram Taluk

1 cc to Mr.C. Prakasam, Advocate, sr. 33510

1 cc to Mr. S. Sairaman, Advocate, Sr. 33500

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SAI (CO)
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