

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.6.2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA.No.659 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Villllupuram)Limited,
Kancheepuram Region.

... Appellant

Versus

1.S.Dhanalakshmi
2.S.Akash
3.S.Vishal
(2 & 3 Minor rep. by their mother and N.F
S.Dhanalakshmi)
No.11A/25 Ammani Ammal Thottam,
New Washermenpet,
Chennai-81.
4.Pandiammal

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the judgment and decree passed by the Motor Accidents Claims Tribunal, IInd Small Causes Court, Chennai made in MCOP.No.4904 of 2009 dated 11.7.2013.

For Appellant : Mr.P.Paramasivadoss
For Respondents : Mrs.Salim Fathima
for Ms.V.Nalini for RR 1 to 3

JUDGMENT

The appeal has been preferred by the State Transport Corporation against the award of Rs.7,58,000/- for the death of one Suresh Babu aged about 34 years in the accident occurred on 18.6.2007. The deceased was working as a Welder in TVS Axeis India Limited and alleged to be earning about Rs.20,000/- per month.

2. Heard Mr.P.Paramasivadoss, learned counsel appearing for the appellant and Mrs.Salim Fathima representing Ms.V.Nalini for respondents 1 to 3.

3. Though, Mr.P.Paramasivadoss, learned counsel appearing for the appellant strenuously argued the case contending that the Tribunal fixed the notional income at Rs.4500/- per month in the absence of any positive evidence for proof of income of the deceased.

4. This Court is of the opinion that the loss of income of the deceased was rightly determined at Rs.4500/- per month. The accident occurred on 18.6.2007. Whereas, in the accident which occurred in 2008, the Hon'ble Supreme Court in Syed Sadiq v. Divisional Manager, United India Insurance Company Limited reported in 2014 (1) TNMAC 457, determined the monthly income at Rs.6500/- per month for a vegetable vendor and added 50% towards future prospects. Totally a sum of Rs.9750/- was fixed as monthly income.

5. Following the said judgement, instead of confirming Rs.3000/- awarded by the Tribunal, this Court redetermines the monthly income of the deceased at Rs.5000/- per month and adds 50% towards future prospects. Therefore, the loss of monthly income would be Rs.5000/- + Rs.2500/- = Rs.7500/-. The family of the deceased consists of 4 persons. The Tribunal rightly deducted 1/4 towards personal expenses, following the judgement of Sarla Verma and others vs. Delhi Transport Corporation and another reported in 2009 ACJ 1298. The loss of income would be Rs.5000/- + 50% - $\frac{1}{4}$ = 5625/- X 12 X 16 = 10,80,000/-.

6. Rs.50,000/- awarded towards loss of consortium is low and the same is enhanced to 1,00,000/- following the judgement of the Hon'ble Supreme Court in Rajesh & others vs. Rajbir Singh & others reported in 2013 (3) CTC 883. Minor children are 12 years and 8 years old and they lost their father's love and affection throughout their life. Therefore, appropriate amount has to be awarded towards loss of love and affection. In a similar matter towards loss of love and affection to the children, Rs.75000/- was awarded. Hence Rs.75,000/- was awarded towards loss of love and affection to respondents 1 and 2. Rs.20,000/- awarded towards mental strain is unwarranted and the same is deleted. Rs.10,000/- awarded towards loss of love affection to the 4th respondent is too low and hence this court enhances it to Rs.25,000/-. Totally a sum of Rs.12,80,000/- is awarded.

7. Though the Transport Corporation has filed the appeal against the award of Rs.7,58,000/-, considering the facts of this case, this Court under Order 41 Rule 33 upon re-appreciating the evidence, suo motu enhances the award amount from Rs.7,58,000/- to Rs.12,80,000/-. Appeal is a continuation of the original proceedings and the Provisions of Motor Vehicles Act are beneficial in nature. By re-appreciating the evidence, this court redetermines the award amount what is required to be awarded is just compensation. Since, just compensation was not awarded by the Tribunal, this Court suo motu enhances the award amount from Rs.7,58,000/- to Rs.12,80,000/- even without any appeal/cross-appeal by the claimant. The respondents/claimants are directed to pay necessary additional court fee. The award amount has to be shared as per the ratio fixed by the Tribunal. The Minor shares are to be deposited in fixed deposits in any one of the nationalized banks till their minority.

8. The appellant is directed to deposit the entire modified award amount along with interest and costs on or before 30th August 2015, failing which, the Director, Chairman, Finance Adviser-cum-Chief Accountant of Transport Corporation shall appear before this Court on 31.8.2015. Call the matter for compliance as first item on that day. The appeal is dismissed with the above enhancement. No costs. Consequently the connected M.P.No.1 of 2015 is also dismissed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1. Motor Accidents Claims Tribunal,
IInd Small Causes Court, Chennai.
 2. The section Officer, Judicial section,
High Court, Madras.
 3. The Managing Director,
Tamilnadu state Transport corporation Ltd.,
Villupuram, Kancheepuram.
- +1 cc to Mr.V.Nalini, Advocate vide, sr.29871
+1 cc to Mr.P.Paramasivadoss, Advocate vide, sr.29723

cnr(co)
kra(28/07)

C.M.A.No.659 of 2015

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