IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2015

CORAM

THE HON'BLE MS. JUSTICE K.B.K.VASUKI

C.M.A.No.2793 of 2008
and M.P.No.1 of 2008

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division No.1,
Villupuram. ...Appellant/Respondent

Vs.

1.Gnanasoundari
2.P.Ramesh
3.Jayabarathi
4.P.Subash ...Respondents/Claimants

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment made in M.C.O.P.No.232 of 2005 on the file of the Motor Accidents Claims Tribunal/Principal District Judge, Cuddalore, dated 22.01.2008.

For Appellant : Mr.V.Kasiviswanathan

For Respondents: Mr.R.Sreedhar

J U D G M E N T

The Tamil Nadu State Transport Corporation, who owns the bus involved in the accident, is the appellant herein.

2.The appeal is filed against the award of compensation of Rs.5,75,500/- made in favour of the widow and children of one Pandurangan, who was the victim of the fatal accident. The Tribunal, having regard to the age of the deceased at 55 years, his employment as Foreman Grade-I, his monthly salary of Rs.12,154/- and the standard deductions made from his monthly income, fixed the compensation under various heads as follows:

(i) Loss of dependency	: Rs.5,32,464/-
(ii) Loss of love and affection (Rs.10,000/- each)	: Rs. 40,000/-
(iii) Funeral Expenses	: Rs. 3,000/-
Total	: Rs.5,75,464/-
Rounded off	: Rs.5,75,500/-

Aggrieved against the quantum so fixed, the present appeal is filed by the State Transport Corporation. The appellant has, in this appeal, questioned the correctness of the award insofar as it relates to quantum of compensation awarded by the Tribunal.

3.The Tribunal, on the basis of the documents above referred to, fixed the monthly salary of the deceased as Rs.12,154/- and yearly income as Rs.1,45,848/- and after deducting 1/3rd of the same, fixed the annual loss of dependency of the claimants at Rs.97,232/-.

4.According to the learned counsel appearing for the appellant/State Transport Corporation, loss of dependency, arrived at for Service and Post Retirement Period of the deceased is highly excessive and unreasonable.

5.It is contended before this Court that the multiplier of '8' adopted for the death of the deceased at the age of 55, who had 3 years service towards loss of dependency is highly excessive and exorbitant. It is further argued that the Tribunal, having adopted multiplier '8', for the death of the deceased at the age of 55years, erred in awarding separate amount as loss of dependency for the Post Retirement Period and the amount so awarded is also too high and excessive.

6.This Court is not inclined to accept the arguments so advanced herein for the following reasons:-

(i)As far as monthly income of the deceased is concerned, the same is, as per Exs.P.6 and P.7/Salary certificate and Salary Slip, Rs.12,154/ and after deducting 1/3rd of the same towards personable expenditures, annual loss of dependency of the claimant, comes to Rs.97,232/-. It may be true that the accident victim died at the age of 55. The multiplier to be adopted for such age group, as per the judgment rendered by the Hon'ble Supreme Court in [Sarala Verma Vs. Delhi Transport Corporation] reported in (2009) ACJ 1298 (SC), is '11' and the same is split up for Service Period as well as Post Retirement Period in the ratio of 3:8 and accordingly, loss of dependency of the claimants is determined.

(ii)As a matter of fact, the Tribunal has adopted multiplier '3' for the service period and multiplier '8' for the pension period and arrived at Rs.5,32,464/- towards the loss of dependency and such a course adopted by the Tribunal having regard to the monthly salary is but reasonable. The quantum of pension payable to the deceased had he been alive and multiplier specified in the Schedule for the particular age group in Sarala Verma's case cannot also be, in my considered view, found fault with and the compensation so arrived at by adopting such method by the Tribunal is fair and reasonable and does not call for inference by this Court.

7.In the result, the Civil Miscellaneous Appeal stands dismissed by confirming the award of the Tribunal. The appellant shall deposit the entire compensation awarded within a period of four weeks from the date of receipt of a copy of this judgment and on such deposit of the amount, the claimants are entitled to their share as apportioned by the Tribunal and they are at liberty to effect withdrawal on due cheque petition. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

va/sd

To

1. The Motor Accidents Claims Tribunal/
   Principal District Judge,
   Cuddalore.

2. The Section Officer,
   VR Section, High Court,
   Madras 104.

+1 cc to Mr.V.KasiViswanathan, Advocate, sr.39522
+1 cc to Mr.R.Sreedhar, Advocate, sr.39650

C.M.A.No.2793 of 2008
and M.P.No.1 of 2008

kgk co
kra 24/09