IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.572 of 2009

1.Rita Mary
2.Minor Periyanayagi
(Minor rep. by next friend/guardian
1st petitioner)
3.Sahaya Mary
4.Kanikkai Mary
5.Royappan
6.Rebeccal Mary ... Appellants/Claimants

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Vellore. ... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the order and judgment dated 25.01.2008 made in M.C.O.P.No.890 of 2006 on the file of the Motor Accident Claims Tribunal, District Court, Thiruvannamalai.

For Appellants : Mr.F.Terry Chellaraja

For Respondent : Mr.S.V.Vasanthakumar

JUDGMENT

This appeal has been preferred by the claimants aggrieved over the quantum of Rs.2,31,000/- awarded for the death of one Periyanayagam, the 1st appellant's husband, in the accident, which occurred on 18.09.2006.

2. Heard the parties and perused the records. The appellants alone are before this Court aggrieved over the quantum. Therefore, that question alone is gone into.

3. The deceased was aged about 38 years and claimed to be earning about Rs.5,000/- p.m. However, the Tribunal took a syn if Rs.1750/- as monthly income. The said income determined by the Tribunal is too low and this Court determines a sum of Rs.5,000/-, which is in consonance with the Judgment of the Honourable Supreme Court in Syed Sadiq etc. Vs. Division Manager, United India Insurance Company Limited reported in 2014 (1) TN MAC 459, wherein for a vegetable vendor a sum of Rs.6,500/- was determined as monthly income by the Honourable Supreme Court.

4. Since the deceased was aged about 38 years, as per the judgment of the Honourable Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TN MAC 1, 50% is to be added towards future prospects. If it is done, the monthly income would be Rs.5,000+50%=7,500/-.

5. Since the size of the family is more than 3, 1/4th is required to be deducted towards personal expenses of the deceased. After deduction, the contribution of the deceased to the family would be Rs.5000+50%-1/4=5,625/-. As the age of the deceased was 38, as per the judgment of the Honourable Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TN MAC 1, the appropriate multiplier is '15' and the loss of income is determined as follows:

5,625X12X15=10,12,500/-

6. Rs.5,000/- awarded by the Tribunal towards loss of consortium to the 1st appellant is too low. Therefore, following the judgment of the Honourable Supreme Court in Rajesh and others Vs. Rajbir Singh and others reported in 2013(3) CTC 883, Rs.1,00,000/- is awarded to the 1st appellant towards loss of consortium. The 2nd appellant, son, who was aged about 1 year at the time of death of the father would be deprived of love and affection, care and guidance of the father through out his life. The said loss cannot be compensated in terms of money. In an endeavor to compensate the same, a sum of Rs.50,000/- to be awarded to the 2nd appellant. The parents and unmarried sister are entitled to Rs.50,000/- towards loss of love and affection in toto. A sum of Rs.2,000/- awarded towards funeral expenses is hereby enhanced to Rs.15,000/-. Since no amount was awarded towards transportation, a sum of Rs.10,000/- is awarded. Totally, this Court awards a sum of Rs.12,37,500/- as compensation. Rounded off to Rs.12,30,000/-. The rate of interest awarded by the Tribunal at 7.5% p.a. remains unaltered.

7. This Civil Miscellaneous Appeal is partly allowed by enhancing the compensation of Rs.2,31,000/- to Rs.12,37,500/-. No costs.

8. The respondent/Transport Corporation is directed to deposit the entire amount along with interest and costs within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the 6th appellant is permitted to withdraw a sum of Rs.50,000/- and appellants 3 to 5 are permitted to withdraw a sum of Rs.20,000/- each along with accrued interest. Balance amount has to be shared equally by the 1st and 2nd appellants. The 1st appellant is permitted to withdraw her share along with accrued interest. As far as the 2nd appellant/minor's share is concerned, the same shall be deposited in any one of the Nationalised Banks in an interest bearing Fixed Deposit, initially for a period of three years and renewable periodically, till she attains majority. The 1st claimant is permitted to withdraw interest accruing on such deposit once in three months.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm

To

The Motor Accident Claims Tribunal,
District Court, Thiruvannamalai.

+ 1 cc to Mr.S.V. Vasanthakumar, Advocate SR.4177
+ 1 cc to M/s. M. Malar, Advocate SR.4018

MG(CO)
EU 16.03.2015