IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2796 of 2013
and
M.P.No.1 of 2015

The Branch Manager,
TNSTC (Kumbakonam) Limited,
Tamil Nadu State Transport Corporation,
Periyamilagupurai,
Trichirapalli. ... Appellant/Respondent

vs.

1.Arumugam
2.Vembu
3.Minor Pradipa ... Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 Motor Vehicles Act, 1988 against the Judgment and decree dated 21.12.2012 passed in M.C.O.P.No.252 of 2010, on the file of the Motor Accident Claims Tribunal/Additional District Judge, Ariyalur.

For Appellant : Mr.D.Venkatachalam
For Respondents : Mr.M.Selvam

JUDGMENT

This Appeal is directed against the Judgment and decree dated 21.12.2012 in M.C.O.P.No.252 of 2010 passed by the Motor Accident Claims Tribunal/Additional District Court, Ariyalur, in and by which, a sum of Rs.6,23,000/- was awarded for the death of a bachelor at the age of 18 years as against the claim of Rs.20,00,000/-.

2. Aggrieved by the quantum of compensation, the Transport Corporation, TNSTC (Kumbakonam) Limited, has filed this appeal.

3. The learned counsel appearing for the appellant would submit that when it is not in dispute that the deceased was survived by his father, mother and sister, the Tribunal erred in deducting 1/3rd income of the deceased towards his personal and

living expenses. As per the principles laid down in Smt. Sarla Verma and others Vs. Delhi Transport Corporation Ltd., and another [(2009) 6 SCC 121], when the deceased was a bachelor, 50% of the income should be deducted out of the income of the deceased towards his personal and living expenses. Therefore, the Tribunal ought to have deducted 50% out of the income of the deceased towards his personal and living expenses. Adding further, he would submit that in the absence of any valid evidence to prove the income and employment of the deceased, the Tribunal has fixed a sum of Rs.4,000/- as notional monthly income. Therefore, on these grounds, the impugned award is liable to be set aside.

4. On the contrary, the learned counsel counsel appearing for the claimants/respondent would submit that the victim died in the accident due to rash and negligent driving of the bus belonging to the appellant Transport Corporation and as a result, an youngster's life has been snatched away at the age of 18 years leaving behind his innocent father and mother along with his minor sister who has to be given in marriage at the income of the deceased. The Tribunal has wrongly fixed the notional monthly income as Rs.4,500/- which is contrary to the principles laid down in the judgment of the Apex Court in Syed Sadiq etc., vs. Divisional Manager, United India Insurance Co.Ltd., reported in 2014 (1) TNMAC 459 (SC), wherein it has been clearly held even in the absence of any acceptable evidence to prove employment and monthly income, a sum of Rs.6,500/- can be taken as notional monthly income. Actually, the deceased was earning a sum of Rs.12,000/-. Disbelieving the claim of the claimants that the deceased was earning a sum Rs.12,000/- per month, the Tribunal has unreasonably fixed a sum of Rs.4,500/- and out of which, 1,500/- was deducted towards personal and living expenses of the deceased and only a paltry sum of Rs.3,000/- was taken as notional monthly income of the deceased. The Tribunal also erred in applying the multiplier 16 as against 18 which is the proper multiplier applicable for the case. Therefore, as per Syed Sadiq's case, if a sum of Rs.6,500/- is taken as notional monthly income, after deduction of 1/3rd out of Rs.6,500/- towards personal living and expenses of the deceased, the notional monthly income of the deceased can be fixed as Rs.4,330/- instead of Rs.3,000/- fixed by the Tribunal. Therefore, according to him, the Tribunal committed error in fixing the notional monthly income of the deceased. The Tribunal also erred in not awarding any compensation towards future prospects as the deceased was aged 18 years at the time of the death in the accident. If the principles laid in Rajesh and others Vs. Rajtic Singh, reported in 2013 (2) TNMAC 55, is applied, future prospects should be awarded. Therefore, if all these things are taken into account, the

claimants are entitled to receive more compensation than the amount awarded.

5. This Court finds merit in the submission of the learned counsel appearing for the respondents/claimants. On consideration of the submissions made and evidence on record, this Court is unable to see any infirmity or irrationality in the impugned award. The contentions of the learned counsel for the appellant are rejected for the reasons stated above. In view of the above reasons, the appeal fails and the same is dismissed. No costs. Connected Miscellaneous Petition is closed.

6. The appellant Transport Corporation is directed to deposit the entire award amount along with interest and costs, less if any amount already deposited to the credit of MCOP No.252 of 2010 on the file of the Motor Accident Claims Tribunal/Additional District Court, Aiyalur, within a period of four weeks from the date of receipt of a copy of this order.

sd/-
Assistant Registrar()

/TRUE COPY/

Sub-Assistant Registrar

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To
1. The Motor Accident Claims Tribunal,
(Additional District Judge),Ariyalur.

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

Copy To:-

The Branch Manager,
TNSTC (Kumbakonam) Limited,
Tamil Nadu State Transport Corporation,
Periyamilagupurai, Trichirapalli.

+1 CC to MR.D.Venkatachalam Advocate. SR.NO. 66777
+1 CC to MR.M.Selvam Advocate. SR.NO. 66712

C.M.A.No.2796 of 2013
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CO-RSK
JD 20/01/2016