

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2999 of 2013

The Managing Director  
Tamil Nadu State Transport Corporation  
(Villupuram) Ltd.,  
Villupuram Region ... Appellant/Respondent

-Vs-

1. V.Periyasamy  
2. P.Alamelu ... Respondents/Claimants

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 28.8.2012 made in M.C.O.P.No.10 of 2009 on the file of the Motor Accidents Claims Tribunal, Additional Subordinate Judge, Chengalpattu.

For Appellant : Mr.P.Paramasiva Doss

For Respondents : Mr.D.Ravichander

JUDGMENT

This civil miscellaneous appeal has been directed against the impugned award passed by the Motor Accidents Claims Tribunal, Additional Subordinate Judge, Chengalpattu in M.C.O.P.No.10 of 2009 dated 28.8.2012 awarding a sum of Rs.7,03,000/- as the total compensation for the death of one Mr.Appu alias Mr.P.Santhakumar in a road accident at the age of 20 years on 21.8.2007. Aggrieved by the award, the Managing Director, Tamil Nadu State Transport Corporation (Villupuram) Limited has brought this appeal.

2. Learned counsel for the appellant submitted that the Tribunal has improperly applied the multiplier of 18 and proceeded wrongly to award the higher compensation of Rs.7,03,000/- by taking into account the age of the deceased as a factor in deciding the claim. As per the dictum of the Apex Court in Sarla Verma and others v. Delhi Transport Corporation and another, 2009 (2) TN MAC 1 (SC), if the deceased is an

unmarried passenger, the age of the claimant alone has to be taken into account. But in the present case, the claimants, being the father and mother of the deceased aged about 46 & 40 years, as per the judgment of the Apex Court in Sarla Verma's case, the Tribunal ought to have applied the multiplier of 15, whereas in the present case, the Tribunal, swayed by the death of a young man at the age of 20, has improperly applied the multiplier of 18, which is bad, for arriving at the higher compensation, therefore, on this score, the impugned award has to be interfered with. Adding further the learned counsel submitted that 50% deduction has not been done, therefore, the impugned award of the Tribunal is liable to be modified. Continuing further the learned counsel submitted that the compensation awarded under the other heads is also improper, therefore, looking at the impugned award, the award of Rs.7,03,000/- is unreasonable, hence, the same is liable to be set aside.

3. On the other hand, the learned counsel for the respondents/claimants submitted that when the deceased was aged about 20 years at the time of accident which took place on 21.8.2007 at about 9.00 hours on the G.S.T.Road at Padalam junction road while he was attempting to cross the road from West to East to board a bus proceeding towards Madurantakam for his duty purpose, the bus belonging to the appellant-Corporation bearing Registration No.TN-32-N-2584 driven by its driver in a rash and negligent manner unfortunately dashed against the deceased, thereby the eldest son of the claimants, after sustaining fatal injuries, died on the spot, as a result the income of the deceased, being an earning member getting Rs.6,000/- per month plus Rs.150/- as daily batta from his employer, should have been properly considered by the Tribunal when the claim was made for Rs.10,00,000/-. But the Tribunal has wrongly fixed a small and meagre amount of Rs.7,03,000/-. Adding further he submitted that as contended by the learned counsel for the appellant, even if the ratio laid down by the Apex Court in Sarla Verma's case is applied in the present case, 50% towards future prospects should be added. This has not been done in this case. This apart, the claimants also have been aptly advised not to prefer appeal for enhancement. Therefore, if any appeal is filed, in view of the ratio laid down by the Apex Court in the case of Syed Sadiq, etc. v. Divisional Manager, United India Insurance Company Limited, 2014 (1) TN MAC 459 (SC) fixing the notional monthly income at Rs.6,500/-, this Court would have enhanced the compensation. Hence the reasonable amount of Rs.7,03,000/- fixed by the Tribunal cannot be interfered with, he pleaded.

4. This Court finds merit in the submissions made by the learned counsel for the respondents/claimants. As rightly

contended by the learned counsel for the respondents, today in view of the subsequent judgment fixing Rs.6,500/- as the notional monthly income, looking at the case of the claimants, a sum of Rs.3,000/- plus 50% towards future prospects has been fixed and one-third has been deducted towards personal expenses of the deceased i.e., Rs.3000x12x18=Rs.6,48,000/-. In addition thereto, the Tribunal has also awarded a sum of Rs.5,000/- towards transportation, Rs.10,000/- towards funeral expenses and Rs.20,000/- each to the claimants towards loss of love and affection. Therefore, this Court is not able to see any infirmity in the impugned award awarding a total compensation of Rs.7,03,000/- along with interest at the rate of Rs.7.5% per annum from the date of petition till the date of realisation. Accordingly, the civil miscellaneous appeal fails and it is dismissed. Consequently, interim order stands vacated and the M.P.No.1 of 2013 is also dismissed. No costs. It is open to the respondents/claimants to withdraw the entire amount along with accrued interest by moving appropriate application before the Tribunal.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal  
Additional Subordinate Judge  
Chengalpattu
2. The Section Officer सत्यमेव जयते  
V.R.Section,  
High Court, Madras.

+1cc to Mr.P.Paramasiva Doss, Advocate, S.R.No.64623

C.M.A.No.2999 of 2013

KJI(CO)  
CA(29/01/2016)