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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.DEVADASS

C.M.A. No.928 of 2015

and

M.P. (MD) .No.1 of 2015

The Managing Director,

Tamil Nadu State Transport Corporation

Trichy.

... Appellant / Respondent

-vs-

1.K.Amirtha Valli

2.K.Senthil Kumar

3.K.Surendran

4.K.Thamarai Selvi

... Respondents 1 to 4 / Petitioners 1 to 4

PRAYER: Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, against the judgment and decree passed on 05.01.2015 in M.C.O.P.No.273 of 2011, on the file of the Motor Accident Claims Tribunal, Sub Court, Kulithalai.

For Appellant : Mr.D.Sivaraman

J U D G M E N T

As the matter lies in a narrow campus, we shall dispose of this appeal at the admission stage itself.

2.The State Transport Corporation is the appellant.

3.In a road accident that took place on 28.05.2011, the deceased lost his life. There is finding of the claims Tribunal that it was due to the rash and negligent driving of the driver of the appellant. On perusal of the oral and documentary evidence, we concur with such a finding of the Tribunal.

4.At the time of his death, the deceased was 65 years old. The Tribunal assessed the total compensation at Rs.9,98,365/-.

5.Now, it is the contention of the learned counsel for the appellant that the deceased had been retired as foreman for TNEB and he was in receipt of Rs.15,000/- as monthly pension. Even he dies, there will be reduction in the quantum of compensation to his family because, thereafter they would get family pension at a lesser rate. This aspect has been overlooked by the Tribunal, which resulted in granting of excessive compensation.

6.There are four claimants. They have claimed the compensation for the loss of life of the deceased.

7.The approach of the Indian Judges in assessing compensation in Motor Accident Cases, is different from the approach of the English Judges. The English Judges decided compensation on the basis of restoration of loss caused to the dependants of the deceased. Courts in



England translates the loss in terms of money and it is almost like granting restitution.

8. But, it is entirely different in India under the Motor Vehicle Act. Now a scheme of compensation has been statutorily framed under Motor Vehicle Act. The claims Tribunal are statutorily bound to award them just compensation and not restore the loss occasioned to the sudden demise of the bread winner.

9. The phrase just has got very larger meaning. Stands for the meaning that the compensation should be fair reasonable. The dependency of the deceased and the role and duty of Head family under Indian circumstances and under English circumstances has been elaborately considered by the Hon'ble Supreme Court in Puttamma v. K.L.Narayana Reddy, [(2014) 1 MLJ 739 (SC)].

10. The Hon'ble Apex Court remarked that loss of life of a person cannot be mathematically calculated. So far as Indian conditions are concerned, apart from a person supplying a source of income, he has to give his dependants material support, play the role of an adviser even after retirement nobody prefers to be idle and one has a duty to settle his daughters in life and even also to provide a roof for his children. If such a person's life has been snatched away the dependants not only loses their source of income but, also many things. In the circumstances, in Puttamma's case (supra) the Hon'ble Supreme Court advocates that the Tribunals should have a liberal approach because they are dealing with a case of loss of human life. But, it should not be in the nature of a lottery or windfall.

11. Now, in this case, then the deceased was 65 years old. Of-course he became a TNEB pensioner. Pension has been given to a person in recognition of his past services. It is a reward of his past service. The Insurance Company, whose liability is statutory under the Motor Vehicle Act towards third party can take defence to the extent mode available to it under Section 149 of Motor Vehicle Act.

12. State Transport Corporations are extra constitutional bodies. State Government like private transporters runs buses. Buses also should be by liabilities, which a private transport also is bound to meet.

13. Therefore, the principle laid down by the Hon'ble Supreme Court in Puttamma's case (supra) can be a guiding principles in assessing compensation for loss of life even the deceased was killed by an offending vehicle owned by State.

14. In the circumstances, any slicing of the quantum of compensation awarded on account of death of the pensioner which may reduce the compensation package to the dependants may reflect just compensation. In the circumstances, I do not want to wish to tinker the compensation amount as determined by the claims Tribunal.

15. In the result, this civil miscellaneous appeal fails and it is dismissed. The appellant shall deposit the entire award amount, less amount if any already deposited, within a period of two months from the date of receipt of a copy of this judgment. On proper application being filed, the Tribunal will disburse the amount as per the rate of allocation as made in the award, less amount any already, if received. No



costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

The Assistant Registrar (Record)

/True copy/

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Sub-Assistant Registrar

To:

1. The District Judge,
Karur.

2. The Motor Accident Claims Tribunal,
Sub Judge,
Karur.

+1cc to Mr.D.Sivaraman, Advocate sr.no.49875

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