IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:- 28.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.105 of 2016
and
CMP No.1024 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Rangapuram,
Vellore. ...Appellant

Versus

1.Umarani
2.Suhashani
3.Deepakkumar ...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 59 of 1988 against the judgment and decree dated 21.07.2015 made in MCOP No.136 of 2013 on the file of Motor Accident Claims Tribunal, I Additional District and Sessions Court, Vellore.

For Appellant :: Mr.S.Sairaman

J U D G M E N T

This civil miscellaneous appeal is taken up for disposal at the stage of admission itself.

2.The Managing Director of the Transport Corporation, Vellore, aggrieved by the impugned award passed by the learned Motor Accident Claims Tribunal cum I Additional District and Sessions Judge, Vellore, has brought this appeal challenging the quantum of compensation of Rs.7,75,000/- awarded towards loss of life of the bread winner of the claimant's family when the deceased died at the age of 22 years as a Bachelor.

3.Mr.S.Sairaman, learned counsel appearing for the Transport Corporation would submit that it is an admitted case that the deceased Kannadasan, aged about 22 years, was a Bachelor at the time of accident. Therefore, the learned Tribunal, after fixing notional monthly income of Rs.5000/-, without any document whatsoever to support his income or employment, has committed yet another error in deducting 1/3 instead of 50% as per the ruling of the Apex Court in Sarla verma vs Delhi Transport Corporation, 2009 (2) TNMAC 1 (SC). He would further submit that the learned Tribunal has also adopted the multiplier of '18', as a result, more compensation has been awarded to the claimants. Hence, the impugned award is liable to be interfered with by this Court, he pleaded.

4.This court is able to see that the learned Tribunal has committed an error in deducting 1/3 instead of 50% from the total monthly income of the deceased, as he was a bachelor at the time of accident. It is a well settled legal position that if the deceased is a bachelor and if the family is not depending on the income of the deceased, 50% should be deducted. But in the present case, it was claimed that the deceased Kannadasan was B.Sc. graduate and was earning Rs.15,000/- per month. The father of the deceased had already died. Therefore, the deceased was looking after his family by maintaining the entire family as the eldest son and head of the family. Since all the family members, after the death of the breadwinner, are suffering a lot, due to the loss of the breadwinner, in my considered view, the learned Tribunal has rightly followed the ratio laid down in the case of Sarla verma vs Delhi Transport Corporation, 2009 (2) TNMAC 1 (SC) wherein it has been reiterated that 50% of the total income could be deducted only if the family is not depending upon the income of the deceased. In the case on hand, all the evidence produced by the claimants would show that no one in the family of the deceased is earning member. Therefore, the contention made by the learned counsel for the appellant that the learned Tribunal has wrongly made 1/3rd deduction instead of 50%, is to be rejected.

5.The learned Tribunal has fixed Rs.5000/- as the notional monthly income of the deceased. This court is also not inclined to interfere with it, for the reason that the claimants have marked Ex.P5 Typewriting Junior Grade Certificate and Ex.P6 PGDCA Certificate issued by KAALI Information Technology, Konavattam to show the qualification of the deceased relating to his income and employment. The claimants also have deposed that the deceased was earning Rs.15,000/- per month by working in a private computer company, however, no documents have been filed to prove the income of the deceased. For the purpose of arriving at a just compensation, the learned Tribunal has fixed Rs.5000/- as notional monthly income and deducted 1/3 of the income of the deceased towards his personal expenses. Thus, the learned Tribunal has made a reasonable approach in fixing notional monthly income of the deceased. Therefore, this Court is not able to find any fault with that.

6. Further, the learned Tribunal has awarded Rs.5000/- towards Medical transportation and another Rs.5000/- towards funeral expenses. That apart, Rs.15,000/- has been awarded to the first claimant mother of the deceased, Rs.10,000/- each has been awarded to the claimants 2 to 4 who are the sisters and brother of the deceased which comes to Rs.45,000/- under the head of loss of love and affection. This court finds no error in the impugned award passed by the learned Tribunal and accordingly, the same is confirmed. The civil miscellaneous appeal fails and the same is dismissed. No costs. The connected miscellaneous petition is also dismissed.

7.The appellant Transport Corporation is directed to deposit as ordered by the Tribunal, the balance amount along with interest within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is open to the claimants to withdraw the amount by moving appropriate application before the Tribunal.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To
The Motor Accident Claims Tribunal,
I Additional District and Sessions Court,
Vellore.

1 cc to Mr.S.Sairaman, Advocate, sr.5156

CMA No.105 of 2016

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kra 10.05.2016