IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 13.06.2016

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THE HONOURABLE MR.JUSTICE T. MATHIVANAN

C.M.A.No.1104 of 2011
and
M.P.No.1 of 2011

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division, Chennaimalai Road,
Erode-1. ...Appellant/Respondent

...vs...

1.Smt.R.Sivagamy
2.K.Rangasamy
3.K.Shanmugam
(Given up) ... Respondents/Petitioners/
Respondents/Respondents.

Prayer: Civil Miscellaneous Appeal is filed to set aside the award made in MCOP.No.163 of 2007 dated 18.06.2010 on the file of the Motor Vehicles Accident Claims Tribunal(Additional District Judge F.T.C.No.IV), Coimbatore at Tiruppur.

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For Appellant :Mr.S.V.Vasantha Kumar

For R1 & R2 :Mr.M.Christopher

JUDGMENT

The Managing Director, Tamil Nadu State Transport Corporation Limited, Coimbatore Division, challenging the award passed by the Tribunal has preferred this Memorandum of Civil Miscellaneous Appeal under Section 173 of Motor Vehicles Act 1988.

2. The respondents 1 and 2 herein had moved the Motor Accident Claims Tribunal (Suboridnate Judge, F.T.C.No.IV, Coimbatore) at Tiruppur, claiming a sum of Rs.10 lakhs for the death of their son, by name Srinivasan in a road traffic accident said to have been taken place on 19.09.2006 involving a lorry bearing registration No.TN.37.AQ-1261 belonging to the

third respondent herein and the passenger bus bearing registration No.TN.33.N-1700 belonging to the appellant/Transport Corporation.

3. On appreciation of the evidences both oral and documentary, the Tribunal had proceeded to award a total sum of Rs.5,27,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of payment, directing the appellant/Transport Corporation to pay this amount to the respondents 1 and 2 within a period of two months.

4. The award of the claims tribunal to the extent of Rs.5,27,000/- has been challenged by the appellant in this appeal.

5.Heard, Mr.S.V.Vasantha Kumar, learned counsel for the appellant and Mr.Chrishtopher, learned counsel for the respondents 1 and 2 and the third respondent being the owner of the vehicle remained exparte before the Tribunal and therefore he was given up.

6. Mr.S.V.Vasantha Kumar, learned counsel for the appellant has projected his argument on the following 3 grounds:-

(i) Without any proof, the Tribunal had erroneously fixed the monthly income of deceased at Rs.4,000/-

(ii) The Tribunal had proceeded to award compensation without giving deduction to the extent of 50% towards personal and living expenses of the deceased, as he was aged about 29 years at the time of occurrence.

(iii) The multiplier of 16 selected by the Tribunal was abruptly wrong.

7. As already observed in the foregoing paragraphs, the appellant/transport Corporation has not disputed the negligence on the part of the deceased. Therefore, there is no need to traverse the related facts on the ground of negligence. In so far as the claim petition is concerned, the deceased had died at the age of 29 in the above said road traffic accident.

8.The claimants are his father and mother. His father was aged about 50 years at the relevant period, whereas his mother was aged about 40 years. Since there was no documentary proof, according to the tribunal, regarding birth date of the deceased, the Tribunal had taken into consideration his mother's age, for arriving at the quantum of compensation. Since the deceased mother was aged about 40 years at that relevant time, the Tribunal had selected the multiplier of 16.

9.Though the claimants had claimed that their son was earning a sum of Rs.7000/- per mensem, since there was no proof with regard to his income, the Tribunal had fixed the monthly income at Rs.4,000/-. Therefore, the annual income of the deceased was calculated at Rs.48,000/- and deducting 1/3rd towards his personal and living expenses, the 2/3rd remainder is Rs.32,000/-. Applying the multiplier as 16, the compensation for loss of dependency was calculated at Rs.5,12,000/-, besides this, for loss of love and affection, the Tribunal had awarded a sum of Rs.5,000/- each, totalling to Rs.10,000/-. Towards the funeral expenses the claims Tribunal had awarded a sum of Rs.5,000/-. Therefore, in total, the Tribunal had awarded Rs.5,27,000/-

10.The claimants /respondents 1 & 2 have not chosen to file any cross objection or any separate appeal for enhancement of compensation. On the other hand, the appellant/Transport Corporation who is the second respondent in the claim petition has alone filed this appeal.

11.Though the method of calculation and selection of multiplier adopted by the Tribunal was wrong, the determination and considerations would basically taken upon the evidence and circumstance of the case. Formulas shown by Courts or only guidelines for computation of compensation, this principle is laid down in Munna Lal Jain and Another Vs.Vipin Kumar Sharma and Others 2015(1) TN MAC 814 (Supreme Court).

12.When this fact is apprised, the learned counsel for the appellant has suggested that the appeal might be dismissed and the award of the claims Tribunal might be confirmed.

13.The learned counsel for the respondents has endorsed the suggestion made by the learned counsel for the appellant. Since the learned counsel for the appellant has suggested to dismiss the appeal after confirming of the award, this Court finds that the appeal may be dismissed as there is no objection on the side of the petitioner/claimants.

14.Accordingly, this Civil Miscellaneous Appeal is dismissed confirming the award of the Tribunal. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District Judge,
   F.T.C.No.IV,Coimbatore at Tiruppur.

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

1 cc to M/s.S.V.Vasanthakumar, Advocate, sr.31007
1 cc to M/s.K.C.KarlMark, Advocate, sr.31610

C.M.A.No.1104 of 2011
and
M.P.No.1 of 2011

rsk co
kra 09.08.2016