IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2016

C O R A M

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.129 of 2015
and M.P.No.1 of 2015

The Managing Director
Tamil Nadu State Transport Corporation
Vellore-9 ...Appellant/ Respondent

Vs

1.S.Balaji
2.Minor B.Harshith
Minor rep. By his Natural guardian
and next friend Father/S.Balaji ... Respondents/ Petitioner

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1989, against the order and decree passed by the Motor Accidents Claims Tribunal, District Judge, (District Court No.II, Kanchipuram) in M.C.O.P.No.191/2012 dated 23.09.2014.

For appellant ... Mr.P.Paramasiva Doss

For respondents... Mr.C.Prabakaran

JUDGMENT

(Judgment of the Court was delivered by R.SUDHAKAR, J.)

The Tamil Nadu State Transport Corporation is on appeal challenging the award dated 23.09.2014 passed in M.C.O.P.No.191 of 2012 on the file of the Motor Accidents Claims Tribunal (District Court, II) Kanchipuram.

2. It is a case of fatal accident. As per the claim petition filed by the respondents 1 and 2 herein/claimants viz., the husband and minor son, before the Tribunal, it is stated that on 18.03.2012 at about 9.30 a.m., E.Sudha was riding a Scooty bearing Reg.No.TN-21-AD-8789 along with her son as a pillion rider and proceeding from Vellaigate towards her residence on the extreme left side of the mud road; at that time, the appellant/State Transport Corporation bus bearing Reg.No.TN-74-N-1265 was driven by its driver and proceeding from Vellore to Chennai, came in a rash and negligent manner and hit behind the

deceased motor cycle. In the said accident, the deceased Sudha sustained multiple grievous injury and died on the spot and her son sustained multiple grievous injuries. According to the claimants, the deceased was working as Secondary Grade Government Teacher at Eganampettai Government Elementary School and was earning a monthly salary of Rs.22,500/-. The compensation claimed was restricted to Rs.60,00,000/-.

3. The Tribunal based on the available evidence before it, held that the accident occurred solely due to rash and negligent act of the driver of the Transport Corporation bus bearing Reg.No.TN-74-N-1265 and the Corporation, being the owner of the bus is liable to pay the compensation. On such finding, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl.No.	Head	Amount granted by the Tribunal
1	Compensation for loss of dependancy	Rs.33,04,120/-
2	Future prospects 50%	Rs. 16,52,060/-
3	Funeral expenses	Rs. 5,000/-
4	Loss of love and affection 1st claimant-Rs.10,000/- 2nd claimant-Rs.10,000/-	Rs. 20,000/-
	Grand Total	Rs. 49,81,180/-

4. The learned counsel for the appellant-Transport Corporation submitted that the Tribunal fixed Rs.24,295/- as monthly salary of the deceased and adopted multiplier 17 and after deducting 1/3 towards personal expenses, the loss of dependency was arrived at Rs.33,04,120/- [Rs.24,295x12x 17x2/3=Rs.33,04,120/-]. Further, towards future prospects, 50% of the amount viz., 16,52,060/- was added. According to the learned counsel for the appellant, the Tribunal has not deducted 10% of the Income Tax deduction from the salary of the deceased and sought for such deduction from the compensation towards pecuniary loss.

5. Heard the learned counsel for respondents 1 and 2 on the above submissions of the learned counsel for the appellant.

6. This court, carefully perused the award of the Tribunal and the submissions made on both sides before this court.

7. We find that the plea of the counsel for the appellant/Transport Corporation in respect of Income Tax deduction

may be tenable, however, going by the quantum of compensation granted towards loss of love and affection to the child and spouse, we are of the view that it is very meagre and hence the amount sought to be reduced towards income tax deduction would not be justified in the facts and circumstances of the case herein. Therefore, even though the plea raised by the learned counsel for the appellant required to be considered, it is rejected for the simple reason that the said amount could be supplanted towards loss of love and affection for the minor child and spouse. As far as other heads of compensation are concerned, we find the same are just and reasonable.

8. On the above reasoning, we find no other ground to interfere with the quantum of compensation fixed by the Tribunal. In any event, in order to protect the interest of minor son/second respondent herein, this court is inclined to modify the proportion of the compensation amount and thus, the second respondent/minor son is entitled to Rs.30,00,000/- and the first respondent/spouse is entitled to Rs.19,81,180/-. Accordingly, this Civil Miscellaneous Appeal is dismissed.

(i) The award fixed by the Tribunal at Rs.49,81,180/- is confirmed.

(ii) The interest granted by the Tribunal at 7.5% per annum is confirmed.

(iii) This court by order dated 12.02.2015 directed the Transport Corporation to deposit 75% of the award amount. Hence, the appellant/Transport Corporation shall deposit the balance award amount with interest within four weeks from the receipt of order.

(iv) The claimants are permitted to withdraw the award amount less the amount already withdrawn by them with accrued interest as per the apportion fixed by this court. The share of minor claimant is directed to be deposited in any one of the nationalised banks till the minor attains majority.

(iv) There will be no order as to costs in this appeal.

(vi) Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

nvsri

To

1. The Motor Accidents Claims Tribunal
District Judge, District Court-II,
Kanchipuram.

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

1 cc to Mr.P. Paramasivadoss, Advocate, Sr. 17499
1 cc to Mr.C.Prabakaran, Advocate, Sr. 17498

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