IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2019 of 2016

Andhra Pradesh State Road
Transport Corporation Limited
rep.by its Managing Director
Bus Bhavan, Tirupathi .. Appellant/Respondent

-Vs-

1. K.Nagarani
2. K.Swamynathan .. Respondents/Petitioners

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 28.04.2015 made in M.C.O.P.No.7549 of 2013 on the file of the Motor Accident Claims Tribunal, (Chief Judge, Court of Small Causes), Chennai.

For Appellant :: Ms.G.V.Shoba

For Respondents :: Mr.K.Suryanarayanan

JUDGMENT

The Andhra Pradesh State Road Transport Corporation represented by its Managing Director, Tirupati has questioned the correctness of the award passed by the Motor Accident Claims Tribunal (Chief Judge, Court of Small Causes), Chennai in M.C.O.P.No.7549 of 2013 dated 28.4.2015, awarding a sum of Rs.4,30,000/- together with 7.5% interest per annum, as against the claim of Rs.8,00,000/-, in favour of the respondent/claimants, who lost their minor daughter aged about 6 years in the accident.

2. Learned counsel for the appellant assailed the impugned award on three grounds. Firstly, the Tribunal has erred in fixing the notional annual income at Rs.20,000/- by taking the age of the deceased child as 6 years. Secondly, it has erred in fixing the multiplier '15' in this case. Thirdly, it has not made the 1/3rd deduction from the notional income so arrived towards personal expenses. On this basis, she pleaded that the impugned award is liable to be interfered with.

3. Heard the learned counsel for the respondents also.

4. At the outset, it may be mentioned that all the three grounds urged before this Court are bereft of any merit. It is not in dispute that the Tribunal has arrived at the notional annual income in this case, relying upon the decision of the Apex Court in the case of Kishan Gopal and another v. Lala and others, 2013 ACJ 2594, wherein the Hon'ble Apex Court has fixed the notional income of the deceased boy in that case, aged 10 years, at Rs.30,000/- per annum. In this case, the Tribunal has arrived at the notional annual income as Rs.20,000/- taking into account the age of the deceased child as 6 years, presumably after deducting 1/3rd towards personal and living expenses. Secondly, in regard to the fixation of '15' as the multiplier in this case, the Apex Court has settled the issue once and for all that '15' shall be the multiplier where the age of deceased is up to 15 years and this has been restated by the Apex Court in the case of Reshma Kumari and others v. Madan Mohan and another, 2013 ACJ 1253, holding as follows:-

> "40. In what we have discussed above, we sum up our conclusions as follows:
>
> (i) In the application for compensation made under section 166 of the 1988 Act in death cases where the age of the deceased is 15 years and above, the Claims Tribunals shall select the multiplier as indicated in column (4) of the Table prepared in Sarla Verma, 2009 ACJ 1298 (SC), read with para 21 of that judgment.
>
> (ii) In cases where the age of the deceased is up to 15 years, irrespective of section 166 or section 163-A under which the claim for compensation has been made, multiplier of 15 and the assessment as indicated in the Second Schedule subject to correction as pointed out in column (6) of the Table in Sarla Verma (supra) should be followed.
>
> (iii) As a result of the above, while considering the claim applications made under section 166 in death cases where the age of the deceased is above 15 years, there is no necessity for the Claims Tribunals to seek guidance or for placing reliance on the Second Schedule in the 1988 Act.

(iv) The Claims Tribunals shall follow the steps and guidelines stated in para 9 of the Sarla Verma (supra) for determination of compensation in cases of death.

(v) While making addition to income for future prospects, the Tribunals shall follow para 11 of the judgment in Sarla Verma (supra).

(vi) Insofar as deduction for personal and living expenses is concerned, it is directed that the Tribunals shall ordinarily follow the standards prescribed in paras 14 and 15 of the judgment in Sarla Verma (supra) subject to the observations made by us in para 38 above.

(vii) The above propositions mutatis mutandis shall apply to all pending matters where above aspects are under consideration."

In the light of the above, this Court is not able to find any infirmity or error with the impugned award. Accordingly, the civil miscellaneous appeal fails and it is dismissed. Consequently, C.M.P.No.14607 of 2016 is also dismissed. No costs.

5. The appellant is directed to deposit the entire award amount along with interest to the credit of the M.C.O.P.No.7549 of 2013 on the file of the Motor Accidents Claims Tribunal (Chief Judge, Court of Small Causes), Chennai within a period of four weeks from the date of receipt of a copy of this order. On such deposit, it is for the respondents/claimants to withdraw the apportioned amount by moving appropriate application before the Tribunal.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Judge
   Court of Small Causes
   Motor Accident Claims Tribunal
   Chennai

Copy to:
The Section Officer
VR Section
High Court, Madras.

1 cc to Mr.K.Suryanarayanan, Advocate, sr.52763
1 cc to M/s.Shoba, Advocate, sr.53237

C.M.A.No.2019 of 2016

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kra 03.10.2016