IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 22.11.2016

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THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.M.A. No.1988 of 2009

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

versus

1.Puvaneswari
2.Loganayaki
3.S.Gopal
4.S.Gomathi
5.Anandhi
6.Yuvaraj .. Respondents/claimants

Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 27.11.2008 made in M.A.C.T.O.P. No.1333/2005 on the file of the Motor Accidents Claims Tribunal, (Additional District Court cum Fast Track Court No.IV), Coimbatore at Tiruppur.

For appellant : M/s.A.Manjumatha

For respondents: Mr.M.Selvam
for M/s.R.Srividhya

JUDGMENT

This appeal is preferred by the State Transport Corporation, who is the respondent before the Tribunal, challenging the quantum of compensation awarded by the Tribunal.

2. In a road accident that took place at about 2.45 p.m. on 24.07.2005, one Sreenivasan, lost his life when a bus belonging to the appellant dashed against the two wheeler he was riding then. He left behind him surviving his two widows (respondents 1 and 2) and four children (respondents 3 to 6).

3.Before the Tribunal, the respondents/claimants made a claim of Rs.20,00,000/-, against which the Tribunal has awarded a total compensation of Rs.11,00,000/- on various heads. The deceased was stated to be an agriculturist and possessed agricultural lands and also a tractor. Fixing his monthly income at

Rs.9,000/-, the Tribunal determined loss of dependency at Rs.10,80,000/- by applying 15 as the multiplier.

4.Learned counsel for the appellant essentially contended that the amount awarded on the head of 'loss of dependency' and more particularly in fixing notional income of the deceased at Rs.9,000/- per month is exorbitant and unreasonable. She also added that there is no documentary proof proving the actual income and that the deceased owned a tractor. Besides both the children of the deceased have settled down in lives and hence could not be considered as dependent on the deceased.

5.Learned counsel for the respondents/claimants would submit that the deceased was an agriculturist and that he owned a tractor which he himself drove and put to agricultural use in the lands he possessed as evidenced by Ext.P-7 Patta Passbook and therefore he was in a position to make a reasonable income. Contending that an agriculturist is different from an agricultural coolie the learned counsel argued that as against a claim of Rs.16,000/- as monthly income of the deceased, the Tribunal has fixed it notionally at Rs.9,000/- only. Adding further, he would submit that when in the normal circumstances, only 1/5th of the income alone may have to be deducted towards personal expenses of the deceased as he had to support a slightly large family of six, the Tribunal has deducted 1/3rd of his income. He would further submit that the Tribunal has also not added any income towards future prospects, as is now permissible vide the authority in Santosh Devi Vs National Insurance Co., Ltd., [2012(2) TNMAC 1 (SC)]. Accordingly, even if the monthly income of the deceased is lowered but not to the extent an agricultural coolie or a small time landless agriculturist might make still if the the principles evolved in Sarala Varma & Others Vs Delhi Transport Corporation & Another [2009(2)TNMAC 1(SC)] and Santosh Devi cases are applied there may not be much variance in figure from the one fixed by the Tribunal.

6. I find merit in the submission of the counsel for the respondents/ claimants. It may be true that the children of the deceased Sreenivasan might have attained majority now and might have settled. However, at the time when they filed the claim petition they were all aged between 18 years and 21 years, which might not pass for an age when one might consider someone as settled down in life. The deceased was aged 43 years and if his income were to be notionally reduced, given his age, there is every possibility he would have augmented it over the years. As this was not reckoned by the Tribunal, a provision must be provided therefor. If so done Rs.6,000/- as determined by the Tribunal could not be considered entirely faulty. There is no way in situations such as this to meticulously determine every components for arriving at the just compensation payable. I do

not consider that the compensation awarded is unsustainable. I find no merit in the appeal and the same is dismissed. Consequently, connected M.P. is closed. No costs.

7. The appellant is stated to have deposited Rs.8,00,000/- before the Tribunal, and it is directed to deposit the balance amount with interest at the rate of 7.5% per annum within a period of six weeks from the date of receipt of a copy of this order. The respondents/claimants are entitled to withdraw the same forthwith.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
(Additional District Court cum
Fast Track Court No.IV),
Coimbatore at Tiruppur.

+1 cc to M/s.R.Srividhya Advocate sr 67730
+1 cc to M/s.N.Anand Advocate sr 68168

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