

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGEMENT RESERVED : 29.11.2016

JUDGMENT PRONOUNCED : 21.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.2234 of 2008

The Managing Director,
Tamilnadu State Transport Corporation Limited,
Division - II, Erode. Appellant/Respondent

Vs.

1. P.Shanmugam,
2. S.Selvi Respondents/Petitioner

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 19.09.2007, made in M.A.C.T.O.P.No.1049 of 2006 on the file of Motor Accident Claims Tribunal (Principal District Court), Salem.

For Appellant : Mr.A.Majumathar
for Mr.N.Anand

For Respondents : Mr.N.Manokaran
For Mr.R.Vinoth Raja

J U D G M E N T

The State Transport Corporation, against which an award has been passed in M.C.O.P.No.1049/2006 on the file of Motor Accident Claims Tribunal (Principal District Court), Salem, has preferred this appeal.

2. On 08.06.2006, at about 9.10 a.m. one Babu, aged 17 years, was fatally knocked down by a bus belonging to State Transport Corporation. He was riding his cycle then. He was stated to be employed in a powerloom and was earning a monthly income of Rs.6,000/-. Claiming compensation on various heads, his parents approached the Tribunal with a claim of Rs.2,25,000/- against which an award for Rs.2,98,000/- was passed. In arriving at his income and assessing loss of support to his family, the Tribunal appears to have been guided by II schedule to Motor Vehicles Act and fixed an annual notional

income of Rs.15,000/- and adopted a multiplier of 15 commensurating with the age of deceased as per the said schedule. The appellant Corporation was directed to pay the amount awarded with the interest @ 7.5% per annum.

3. The learned counsel for the appellant vehemently contended that the Tribunal has wrongly addressed the issue and has been unduly charitable to the parents of the deceased. It is undisputed that Babu's death was unfortunate. But that does not imply that the driver of the bus must be held negligent when no material to support the same is available on record, argued the counsel.

4. Per contra, the learned counsel for the respondent contended that the march of law during the last decade starting from Sarala Varma & Other Vs. Delhi Transport Corporation & another [2009(2) TNMAC 1]: [2009 ACJ 1298] has taken law of compensation in Motor Accident Claims to an entirely another plane and the judicial approach to compensation law has been pragmatic and not pedantic. It is further argued that even though the claimants have not preferred any cross objection, an enhancement of the compensation consistent with the law now prevails is required to be considered in exercise of power that this Court has under Order XLI Rule 33 CPC, as it would be unjust and unfair to deny the claimant the benefit of what has been declared as the just and fair method of computing compensation.

5. On going through the award I do not find any infirmity in it on the question of negligence. In fact the learned counsel for the appellant was not able to pin point any specific area where the Tribunal had gone wrong and whatever that was argued did not carry conviction either.

6. Turning to the oral plea for enhancement of compensation is concerned, a reality check may have to be done as to the justness and fairness of the compensation awarded and to facilitate which the amount claimed and amount awarded on various heads is now tabulated:-

Heads	Amount Claimed (Rs.)	Amount Awarded (Rs.)
Loss of dependency	5,00,000	2,25,000 (15,000 X 15)
Love and affection	50,000	50,000
Mental agony and shock	50,000	20,000
Loss of happiness	50,000	

Heads	Amount Claimed (Rs.)	Amount Awarded (Rs.)
Loss of amenities	50,000	3,000
Total	7,00,000	2,98,000

If Sarala Varma [2009(2) TNMAC 1] : [2009 ACJ 1298] principle were to be applied, then it is a case where the claimant was not adequately educated and given 2006 standards the notional income of a boy of 17 years could be easily fixed at Rs.2,500/- and at that rate his annual income would be Rs.30,000/-. After providing for his personal expenses at 50% the net annual income available with him to support his family will be Rs.15,000/-. If another 50% is added towards future prospect in earning a higher income, the multiplicand will be Rs.22,500/-. If a multiplier of 18 is applied loss of his contribution to the family will be Rs.4,05,000/-. Compensation on some of the other heads too have been suitably modified as indicated in the table below:-

Heads	Amount Claimed (Rs.)	Amount Awarded (Rs.)	Compensation Now enhanced
Loss of dependency	5,00,000	2,25,000 (15,000 X 15)	4,05,000
Love and affection	50,000	50,000 (25,000 X 2)	50,000
Mental agony and shock	50,000	20,000	25,000
Loss of happiness	50,000	-	-
Loss of amenities	50,000	-	-
Total	7,00,000	2,98,000	4,80,000

7. In the result, the Civil Miscellaneous Appeal is dismissed without costs. However, the award amount is enhanced from Rs.2,98,000/- to Rs.4,80,000/-. The appellant is directed to pay enhanced compensation with interest at 7.5%, less any amount if already deposited, whereupon, the claimants would be entitled to withdraw the same forthwith.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kmi
To:

The Motor Accident Claims Tribunal (Principal District Court),
Salem.

Copy to

The Record Keeper,
V.R.Section, High Court,
Madras.

+2cc to Mr.N.Manokaran, Advocate Sr.70289 and 74744
+1cc to Mr.N.Anand, Advocate SR.70394

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