BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.M.A(MD)No.1105 of 2015
and
C.M.A.(MD)No.1394 of 2015 and M.P(MD)No.1 of 2015

C.M.A.(MD)No.1105 of 2015:

1.R.Manjula
2.Minor V.Vikraman
3.Minor V.Mani Bharathy
4.A.Samiyappa
5.S.Subbammal ... Appellants/ Claimants
(Minor Appellants 2 and 3 represented by their mother and natural guardian R.Manjula, the first appellant herein.)

Vs.

The General Manager,
Tamil Nadu State Transport Corporation,
(Kumbakonam Ltd.,),
Tiruchirappalli Region,
Tiruchirappalli. ... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 23.04.2015 passed in M.C.O.P.No.187 of 2013, by the Motor Accident Claims Tribunal cum Special District Judge, Tiruchirappalli.

For Appellants ... Mr.G.Karnan
For Respondent ... Mr.D.Sivaraman

C.M.A.(MD)No.1394 of 2015:

The General Manager,
Tamil Nadu State Transport Corporation,
(Kumbakonam Ltd.,),
Trichy Region,
Tiruchirappalli. ... Appellant/ Respondent

Vs.

1.R.Manjula
2.Minor Vikraman
3.Minor Mani Bharathi
4.A.Samiyappa
5.S.Subbammal ...Respondents/Petitioners 1 to 5
(Minor respondents 2 and 3 represented through their mother and natural guardian Manjula, the first respondent herein.)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 23.04.2015 passed in M.C.O.P.No.187 of 2013, by the Motor Accident Claims Tribunal cum Special District Court, Tiruchirappalli.

For Appellant ... Mr.D.Sivaraman

For Respondents ... Mr.G.Karnan

COMMON JUDGMENT

(Judgment of the Court was delivered by **N.KIRUBAKARAN,J.**)

Both the Civil Miscellaneous Appeals have been preferred by the claimants as well as the Transport Corporation against the same award passed by the Tribunal awarding a sum of Rs.18,70,832.50 (Rupees Eighteen Lakhs Seventy Thousand Eight Hundred and Thirty Two and Paise Fifty only) for the death of one Veerapandian, aged about 46 years, working as Special Grade Trademan in Transport Corporation, on 02.02.2012 in an accident.

2. The claimants have filed the appeal in C.M.A.(MD)No.1105 of 2015 aggrieved over the quantum for enhancement of the same and the Transport Corporation is before us in C.M.A.(MD)No.1394 of 2015 questioning the quantum.

3. Heard Mr.D.Sivaraman, learned Counsel for the Transport Corporation and Mr.G.Karnan, learned Counsel for the claimants.

4. Though in the grounds of appeal, the liability has been questioned, the only point urged is regarding the quantum.

5. Mr.D.Sivaraman, learned Counsel for the Transport Corporation would submit that the amount awarded by the Tribunal is on the higher side and no deduction was made with regard to the income. However, Mr.G.Karnan, learned Counsel for the claimants would submit that no amount towards future prospects was added while the monthly income was calculated as the deceased was aged 46 years.

6. The deceased was working as a Special Tradesman and he

died in the accident on 02.02.2012. At the time of death, he was drawing a sum of Rs.23,225/- per month as proved by Ex.P.1. As per the judgment of the Honourable Supreme Court in ***Sarla Verma and others v. Delhi Transport Corporation and another*** reported in ***2009 (2) TN MAC 1 (SC),*** 1/3rd amount is required to be added towards future prospects, whose age is more than 40 years. Following the said judgment, this Court adds 1/3rd amount towards future prospects and the monthly income of the deceased is arrived at Rs.30,967/- p.m. (Rs.23,225/-+7,742/-(1/3rd amount) = Rs.30,967).

7. Following the same judgment, 1/4th amount is required to be deducted towards personal expenses as the size of the family is 5 which was rightly done by the Tribunal. After deduction, the monthly income of the deceased would be as follows:

Rs.30,967/- - 7,742/- (1/4th amount) = Rs.23,225/- p.m

8. The Tribunal rightly applied the multiplier method and the same is confirmed.

9. The loss of income would be Rs.23,225/- + 1/3rd amount - 1/4th amount X 12 X 13 = Rs.23,225/- + 7,742 - 7,742 X 12 X 13 = Rs.36,23,100/-

10. This Court rejects the plea of Mr.D.Sivaraman, learned Counsel for the Transport Corporation that the split multiplier method has to be applied as the deceased was 46 years and only 12 more years of service is left. However, the Honourable Supreme Court in ***Puttamma V. K.L.Narayana Reddy*** reported in ***(2013) 15 SCC 45*** held that general multiplier method alone has to be taken into consideration and not the split multiplier method.

11. The Tribunal awarded only a sum of Rs.50,000/- towards loss of consortium to the first claimant. As per the claim petition, she was aged about 42 years. Loss of husband at the age of 42 years is very painful and therefore, the award of Rs.50,000/- is on the lower side. Following the judgment of the Honourable Supreme Court in ***Rajesh and others vs. Rajbir Singh and others*** reported in ***(2013) 9 SCC 54***, a sum of Rs.1,00,000/- is awarded towards loss of consortium.

12. Towards loss of love and affection to the other claimants, only a sum of Rs.50,000/- is awarded. There are two children and aged parents and therefore, the amount of Rs.50,000/- is enhanced to Rs.1,00,000/-. A sum of Rs.20,000/- is awarded towards Transportation charges and the same is reasonable and is confirmed.

13. However, no amount is awarded towards funeral expenses and therefore, a sum of Rs.25,000/- is awarded. No amount for loss of estate is awarded by the Tribunal and therefore, a sum of Rs.35,000/- is awarded. Hence, the total compensation is Rs.39,03,100/-.

14. Though the Tribunal deducted 10% towards income tax, the learned Counsel for the Transport Corporation seeks for 30% deduction towards income tax, relying upon the judgment of the Honourable Supreme Court in ***Ranjana Prakash & others v. Divisional Manager and another*** reported in ***2011 (2) TN MAC 313 (SC).*** However, the income slab of the deceased would not cross Rs.10,00,000/- and therefore, 30% deduction cannot be applied to the facts of the case and the Tribunal rightly deducted 10% towards income tax and the same is confirmed. The compensation determined after deducting 10% towards income tax would be Rs.35,12,790/- [Rs.39,03,100/- - Rs.3,90,310/- = Rs.35,12,790/-].

15. The break up details of the award thus modified by this Court are as under:

S.No.	**Description**	**Amount awarded by Tribunal (Rs.)**	**Amount awarded by this Court (Rs.)**
1	Loss of income	27,17,325.00	36,23,100.00
2	Loss of consortium to the first claimant	50,000.00	1,00,000.00
3	Loss of love and affection to the claimants 2 to 5	50,000.00	1,00,000.00
4	Funeral expenses	20,000	25,000.00
5	Transportation charges		20,000.00
6	Loss of Estate		35,000.00
		28,37,325.00	39,03,100.00
	10% Income Tax deduction	2,83,732.00	3,90,310.00
	Total	25,53,593.00	35,12,790.00

16. Accordingly, the total compensation would come to Rs.35,12,790/-. The enhanced award amount shall stand credited only in favour of the minor claimants 2 and 3. The rate of interest awarded by the Tribunal at 7.5 % stands confirmed. The ratio adopted for sharing the award amount also stands confirmed.

17. It is also represented by Mr.D.Sivaraman, learned Counsel for the Transport Corporation that a sum of Rs.6,82,760/- was awarded under the Workmen's Compensation Act and the same was rightly deducted by the Tribunal and therefore, the said amount has to be deducted and accordingly, it comes to Rs.28,30,030/-

(Rs.35,12,790/- - Rs.6,82,760/-).

18. Since the Transport Corporation is liable to pay, a sum of Rs.28,30,030/- shall be deposited by the Transport Corporation before the Tribunal within a period eight weeks from the date of receipt of a copy of this judgment. The minor claimants are alone entitled equally the enhanced compensation of Rs.9,59,198/-(Rs.28,30,030/- - Rs.18,70,832/- = Rs.9,59,198/-) apart from their share amount in Rs.18,70,832.50 being the award amount granted by the Tribunal.

19. On such deposit, the claimants 1,4 and 5 are entitled to withdraw their respective share as per the tribunal award amount, as the enhanced amount goes to minor claimants. However, the respective share of the minor claimants 2 and 3, shall be invested in any one of the Nationalised Banks initially for a period of two years and thereafter renewable under the reinvestment scheme, till they attain majority. The first claimant is permitted to withdraw the accrued interest quarterly, in the fixed deposits of the minor claimants.

20. In the result, both the Civil Miscellaneous Appeals are disposed of as above. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To
The Special District Judge,
Motor Accidents Claims Tribunal, Trichirappalli.

Copy to:
The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court.

+1cc to Mr.D.SIVARAMAN,Advocate, Sr.No.1224
+1cc to G.KARNAN, Advocate Sr.No.858

C.M.A(MD)No.1105 of 2015 and
C.M.A.(MD)No.1394 of 2015
and M.P(MD)No.1 of 2015
06.01.2016

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