IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 1/6/2017

C O R A M

The Honourable Mr.JUSTICE S. MANIKUMAR
and
The Honourable Mr.JUSTICE M. GOVINDARAJ

Civil Miscellaneous Appeal No.1406 of 2017

The Managing Director
Tamil Nadu State Transport Corporation
(Coimbatore Division – I) Ltd
Chennimalai Road
Erode. ... Appellant /Respondent

Vs

1. R. Padmavathi

2. Minor R.Manojkumar

3. Minor R.Nishanthini
(Respondents 2 and 3 represented by guardian/mother R.Padmavathi S/o & D/o Ravi)

4. Selvaraj

5. Palaniammal. ... Respondents/Petitioners

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 5/4/2016 made in M.C.O.P.No.489 of 2014 on the file of the Motor Accident Claims Tribunal, I Additional District Court, Tirupur.

For Appellant : Mr.K.J.Sivakumar
For Respondents : Mr.SP.Yuvaraj

J U D G M E N T
(Judgment of the Court was made by S.Manikumar,J)

Quantum of compensation of Rs.17,09,200/-, with interest at the rate of 7.5% p.a., from the date of claim till deposit, awarded to the legal representatives of the deceased in M.C.O.P.No.489 of 2014, dated 5/4/2016, on the file of the Motor Accidents Claims Tribunal and I Additional District

Court, Tirupur, is challenged by the Managing Director, Tamil Nadu State Transport Corporation (Coimbatore Division - I) Limited, Erode, on the ground that determination of monthly income as Rs.9,000/-, is excessive and consequently, computation of loss of contribution has to be interfered with.

2. Except the above, no other ground is urged by Mr.K.J.Sivakumar, learned counsel for the Tamil Nadu State Transport Corporation. In view of the limited submission, there is no need to delve into the aspect of negligence and liability.

3. The deceased is survived by his wife, two minor children, aged about 12 and 10 years respectively. Parents of the deceased were aged about 62 and 60 years respectively. According to them, at the time of accident, the deceased was a Proprietor in M.N.Garments, Koduvai and earned Rs.25,000/- p.m. Ex.P.5, dated 25/9/2012, Industries and Commerce Department Acknowledgement card has been filed to prove that the deceased intended to set up a manufacturing business. Ex.P.6, dated 19/2/2016, Accounts Statement; Ex.P.7 Customer Identification pass; Ex.P.8 dated 25/7/2013 Delivery note, Ex.P.9 dated 16/8/2012 delivery note have been filed to prove business transactions. Ex.P.10 is the statement issued by Dixcy textile. Ex.P.11 is a TDS certificate. Apart from producing the above said documentary evidence, claimants/respondents have also examined P.W.3 to prove that the deceased was engaged in textile business.

4. Observing that TDS certificate Ex.P.10 would not confirm the actual income of the deceased and that the claimants/respondents have not filed Income tax returns, on evaluation of the documentary evidence, Exs.P.6 to P.11, the Tribunal has determined the monthly income of the deceased as Rs.9,000/-. Having regard to the age of the deceased 43 years, at the time of accident, the Tribunal has added 30% of the income under the head future prospects. Dependants being 5, the Tribunal deducted 1/3 towards the personal expenses of the deceased and applied 14 multiplier, as per the decision of Sarla Verma Vs. Delhi Transport Corporation {2009 2 TN MAC 1 (SC)}, and accordingly, computed the loss of contribution to the family as Rs.14,74,200/- (1,05,300 x 14). That apart, awarded Rs.50,000/- under the head loss of consortium to wife, Rs.50,000/- under the head loss of love and affection to the parents, Rs.1 lakh to the care and guidance for minors, Rs.25,000/- for funeral expenses and Rs.10,000/- for transportation expenses. Altogether awarded Rs.17,09,200/- with interest, at the rate of 7.5% p.a., from the date of claim till deposit.

5. Though Mr.K.J.Sivakumar, learned counsel for the Tamil Nadu State Transport Corporation/appellant contended that the determination of monthly income of Rs.9,000/- for the purpose of computing the loss of contribution to the family is on the higher side and consequently sought for interference in the assessment of loss of contribution to the family, this Court is not inclined to accept the said contention for the reason that the Tribunal has properly evaluated Exs.P.6 to P.11 stated supra and arrived at the monthly income of Rs.9,000/- only as against the claim of Rs.25,000/- p.m. The accident has occurred on 9/2/2014. The deceased is survived by four dependants. Income determined on an average of Rs.300/- per day is not excessive. Deduction of 1/3 is erroneous.

6. In the light of the above discussion, we are not inclined to interfere with the award. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

7. Tamil Nadu State Transport Corporation Limited, Erode is directed to deposit the entire award amount with proportionate interest and costs, to the credit of M.C.O.P.No.489 of 2014, on the file of the Motor Accident Claims Tribunal, I Additional District Court, Tiruppur, within a period of six weeks from the date of receipt of a copy of this order.

8. Share of the minors/respondents 2 and 3, shall be deposited in any one of the Nationalised Bank in fixed deposit, under the reinvestment scheme, initially for a period of three years. The interest accruing on the share of the minors shall be paid to the first respondent/mother of the minors once in three months, till they attain majority. On such deposit being made, except the minors, the respondents/claimants are permitted to withdraw the award amount, on making necessary applications.

-s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
I Additional District Court, Tirupur.

2. The Section Officer
V.R. Section
High Court, Madras.

+1 CC to Mr.K. Sivakumar, Advocate sr 39354
+1 CC to Mr.S.P. Yuvaraj, Advocate sr 39385

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SR(CO)
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