IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

AND

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.1815 OF 2016
AND CMP NO.13351 OF 2016

The Managing Director
Tamil Nadu State Transport Corporation
Villupuram Limited
Thiruvannamalai Region. ..Appellant/Respondent

Versus

1.Kokila
2.Muthu
3.Selvi ..Respondents/Petitioner

PRAYER: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.10.2015 passed in MCOP No.541 of 2012 by the Motor Accident Claims Tribunal (District Court - II) Kanchipuram.

For Appellant : Mr.P.Paramasivadoss

For Respondents : Mr.P.D.Selvaraj

J U D G M E N T

(JUDGMENT OF THE COURT WAS MADE BY S.MANIKUMAR, J.)

Being aggrieved by the quantum of compensation of Rs.12,42,000/- with interest, at the rate of 7.5% per annum from the date of claim, till the date of deposit and costs, awarded in M.C.O.P.No.541 of 2012 dated 27.10.2015 on the file of Motor Accident Claims Tribunal (District Court - II) Kanchipuram, to the legal representatives of the deceased, the Managing Director, Tamil Nadu State Transport Corporation, Villupuram Limited, Thiruvannamalai Region, has filed the instant appeal, on the grounds inter alia that the Tribunal has erred in fixing the monthly income of the deceased as Rs.5,500/-, for the purpose of computing loss of contribution to the family.

2. As the challenge is limited only to quantum, there is no need to delve into the aspects of negligence and liability.

3. Respondents / claimants are the wife and parents of the deceased Venkatesan, aged about 30 years. He was stated to be a Master in Sakthi Ganapathy Hotel, Kancheepuram and earned Rs.15,000/- per month. Supporting the avocation, wife has adduced evidence.

4. Taking note of the decisions of the Hon'ble Supreme Court in SRI RAMACHANDRAPPA VS. THE MANAGER, ROYAL SUNDARAM ALLIANCE COMPANY LTD., [2011 (13) SCC 236] wherein the the Supreme Court has fixed the monthly income as Rs.4,500/-, for Labourer during the relevant period (2004 - between Rs.100 - 150/- per day); SYED SADIQ AND OTHERS VS. DM UIIC LTD., [CDJ 2014 (SC) 044] wherein, the Hon'ble Supreme Court has fixed the monthly income of a vegetable vendor, in the year 2008 as Rs.6,500/-; MUNNA LAL AND ANOTHER VS. VIPIN KUMAR SHARMA AND OTHERS [CDJ 2015 (SC) 476] wherein, the Hon'ble Supreme Court has confirmed the monthly income of Rs.12,000/- to a self employed Pandit aged about 30 years, the Tribunal notionally fixed the income of the deceased as Rs.5,500/- per month.

5. At the time of accident, the deceased was aged 30 years. Following the judgment of the Hon'ble Supreme Court in SARLA VERMA (SMT) AND OTHERS VS. DELHI TRANSPORT CORPORATION AND ANOTHER [2009 (6) SCC 121] the Tribunal has added Rs.2,750/- i.e., 50% of the income, under the head future prospects. The Tribunal has fixed monthly income of the deceased as Rs.8,250/- for the purpose of computing loss of contribution to the family. As the number of dependents were 3, the Tribunal has deducted 1/3rd towards personal and living expenses. Multiplier 17 has been applied. Tribunal computed the loss of contribution to the family as Rs.11,22,000/- (Rs.5,500 X 12 X 17). That apart, the Tribunal has awarded a sum of Rs.50,000/- towards loss of consortium to the first respondent/wife, who was aged about 25 years at the time of accident. For loss of love and affection to the parents, Tribunal has awarded Rs.50,000/-. For funeral and transport expenses, a sum of Rs.20,000/- has been awarded.

6. Compensation awarded under the head consortium is less. Compensation awarded under the head funeral and transportation is also less. To provide food, shelter, clothing and to meet out the electricity charges, water, and other incidental expenses, one may require a reasonable income. However, Rs.5,500/- alone, taken as monthly income, for the purpose of computing the loss of contribution to the

family, at any stretch of imagination, be said to be on the higher side. Quantum of compensation awarded cannot be said to be a bonanza to respondent no.1 wife and parents, who lost their bread winner.

7. With Rs.5,500/- per month, it is difficult to maintain a family. In spite of the above, the Managing Director, Tamil Nadu State Transport Corporation Villupuram Limited, Thiruvannamalai Region, has chosen to file the instant appeal, thereby the Transport Corporation has to lose substantial amount by way of interest. Though the appeal deserves to be dismissed with costs, hoping the Transport Corporation would rectify their mistakes, in preferring unnecessary appeals, we refrain from doing so.

8. Registry is directed to send a copy of this order to the Secretary, Government of Tamil Nadu, Transport Department, who would issue appropriate instructions to the Managing Directors of the Transport Corporation, in this regard.

9. In view of the above discussion, there is absolutely no merit in the Civil Miscellaneous Appeal and the same is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

10. Consequent to the dismissal of the appeal, appellant - Tamil Nadu State Transport Corporation Villupuram Limited, Thiruvannamalai Region, is directed to deposit the entire award amount, with interest at the rate of 7.5% per annum, from the date of claim and costs, of this appeal, less the statutory deposit, to the credit of MCOP No.541 of 2012, on the file of Motor Accident Claims Tribunal (District Court - II) Kanchipuram, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to seek for withdrawal of the same, by making necessary applications before the Tribunal.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal
   (District Court - II)
   Kanchipuram.

2. The Secretary to Government
   Government of Tamil Nadu
   Transport Department
   Fort St. George, Chennai - 600 009.

+2 cc to Mr.P.D.Selvaraj, Advocate, S.R.No.15335
+1cc to Mr.P.Paramasivadoss, Advocate, S.R.No.15892

C.M.A.NO.1815 OF 2016

rj(co)
rmp(21/03/17)