IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2017

CORAM : THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

CMA.No.2128 of 2011
and CMP.No.12886 of 2011

1.A.Kavitha
2.Naga @ Nagarathinam
3.E.Ranganathan
4.R.Rajeshwari ... Appellants/Claimants

Vs.

The Managing Director
Metropolitan Transport Corporation Ltd.,
Anna salai.
Chennai - 600 002. ... Respondent/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 11.04.2011 passed by the leaned Principal District Judge, Tiruvallur, in MCOP.No.164 of 2008.

For Appellants : Mr.K.V.Babu
For Respondent : Mr.S.Sivakumar

JUDGMENT

1. On 06.01.2008 at about 8.15 p.m., one Suresh @ Vinodkumar, who was a young man aged 24 years, just married, was fatally knocked down by the recklessness of the driver of the respondent bus. Seeking compensation for his loss that his family was forced to endure, his heirs moved the Tribunal with a claim of Rs.18,00,000/- as against which the Tribunal has passed an award of Rs.4,33,000/-. Challenging the inadequacy of the award of the Tribunal, the claimants have preferred this appeal.

2. The claimants have produced Ext.P-6, as per which the victim was stated to have been employed in a certain private concern and was earning a gross monthly salary of Rs.12,000/-. This was proved through P.W.3, the Manager of the employer of the victim. However, the Tribunal has taken the basic pay of Rs.8,000/- received by the victim for the purpose of calculating the compensation, deducted 1/3rd towards his personal expenses and applied appropriate multiplier of 17 and arrived at a sum of Rs.4,08,000/- towards loss of dependency. On other heads of non-

pecuniary damages the Tribunal awarded Rs.25,000/-, and arrived at the total compensation payable at Rs.4,33,000/- which it directed be paid with interest at the rate of 7.5% p.a., on the sum awarded.

3. The learned counsel for the appellants submitted that the Sarla Verma principle of adding the future prospects corresponding to the age of the victim must be included. Besides, the damages awarded on non-pecuniary heads are meagre and they hardly can be termed as just and fair compensation to assuage the agony of the heirs of the victim.

4. Per contra, the learned counsel for the respondent contended that the victim's salary can be reckoned only at Rs.6,500/- per month after other deductions are taken in to consideration.

5. On a perusal of record, I find that the claimant has produced Ext.P-6, salary certificate of the victim, dated 28.01.2008, the very year in which the accident had taken place. The claimant had summoned P.W.3, to prove Ext.P-6, however for the reason best known to the Tribunal, it disbelieved the said witness. To give a quietus to the controversy, this Court chooses to fix the salary of the victim to the extent indicated by the respondent. Indeed, given the nature of employment that the victim was engaged in, as well as his clarification as an employee of M/s.The Colossus Consulting, Chennai, this Court deems it appropriate to fix his monthly income at Rs.6,500/-. Therefore, his annual income would be Rs.78,000/-, from which Rs.26,000/- (1/3rd of annual income) must be deducted towards the personal expenses of the victim. This leaves a balance of Rs.52,000/-, which would be considered as the extent of financial support that the victim could be presumed to have given his family. As per the dictum in Sarla Verma, another 50% must be added towards loss of future prospects and it would make the multiplicand as Rs.78,000/-. The appropriate multiplier is 18 and the total compensation amount payable is Rs.14,04,000/-. Further, this Court felt that the compensation awarded on the heads of loss of consortium and loss of estate is very low and unreasonable, hence, it enhances the award on the head of loss of consortium to Rs.1,00,000/- and for loss of love and affection to the parents of the victim (petitioners 2 and 3 herein) Rs.25,000/- each is awarded. The fourth petitioner being the sister of the deceased, this Court holds that the view of the Tribunal on this aspect is correct and accordingly the said person cannot be considered as a dependant of the deceased and nothing can be awarded to her. The break-up details of the enhanced award of compensation is as follows :

Heads of compensation	Amount enhanced (Rs.)
Loss of dependency	14,04,000
Loss of consortium	1,00,000
Loss to estate (father & mother of the victim @ Rs.25,000/- each)	50,000
Funeral expenses	5,000
Total :	15,59,000

6. In the result, the appeal is partially allowed and the award amount is enhanced from Rs.4,33,000/- to Rs.15,59,000/-. The respondent-insurance company is directed to deposit the enhanced award of compensation along with accrued interest, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this order, whereupon the petitioners 1 to 3 are permitted to withdraw the same forthwith in the same ratio that was done by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

ds/ssn

To:

1.The Principal District Judge
Motor Accident Claims Tribunal
Tiruvallur.

2.The Section Officer
VR Section
High Court,
Madras.

+2 cc to Mr.K.V. BABU Advocate, S.R.No. 55578

CMA.No.2128 of 2011

PVS(CO)
TR(11/12/2017)