IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 14.06.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.1669 of 2017
and
C.M.P. No.8936 of 2017

The Managing Director
Tamilnadu State Transport Corporation
Limited, No.12, Ramakrishna Road,
Salem-07. .. Appellant/Respondent

versus

1. Raja
2. Poonkudi .. Respondents/Petitioners

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 09.07.2015 and made in M.C.O.P.No.65 of 2013 on the file of Motor Accidents Claims Tribunal, Special District Judge, Salem and praying to set aside the same.

For appellant : Mr.D.Venkatachalam

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal in M.C.O.P.No.65 of 2013, this appeal has been filed by the Transport Corporation.

2. The deceased, Sathish, aged 18 years, a first year Polytechnic student, died in an accident that occurred on 10.12.2012. The parents of the deceased, viz., the father and mother filed claim petition claiming compensation in a sum of Rs.25,00,000/-. T

3. The tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.6,58,200/- as compensation, the break up of which is as hereunder :-

Loss of Dependency	-	Rs.5,83,200/=
Loss of Love & Affection	-	Rs. 50,000/=
Funeral Expenses	-	Rs. 25,000/=
Total		Rs.6,58,200/=

Challenging the compensation awarded as excessive, the present appeal has been filed by the appellant/Transport Corporation.

4. Learned counsel appearing for the appellant submits that the monthly notional income fixed is on the higher side and the same needs to be reduced.

5. A perusal of the order passed by the Tribunal reveals that based on the documentary evidence, the Tribunal has fixed the age of the deceased at 18 years. The deceased, being a first year student in the polytechnic, the Tribunal, keeping in mind the avenues open to the deceased for employment, fixed the notional monthly income of the deceased at Rs.6,000/-, though the claimants had submitted that the deceased would have earned Rs.12,000/- per month. The Tribunal has reasoned that the deceased would have earned atleast Rs.200/- per day and, accordingly, fixed the monthly income at Rs.6,000/- and deducting 50% towards the personal expenses of the deceased adopting multiplier of 18, quantified the loss of dependency at Rs.6,48,000/=. From the compensation amount of Rs.6,48,000/-, the Tribunal deducted 10% towards the income tax and accordingly, awarded a sum of Rs.5,83,200/- towards loss of dependency. The Tribunal awarded a further sum of Rs.50,000/- towards the amount of Love and Affection and a sum of of Rs.25,000/- towards funeral expenses. In all, the Tribunal awarded a sum of Rs.6,58,200/= as compensation to the claimants.

6. Though it is the contention of the learned counsel appearing for the appellant that the fixation of monthly income is on the higher side and, therefore, the same needs to be reduced, however, the said contention does not merit acceptance. The accident had happened in the year 2012. The Supreme Court, in the case of Syed Sadiq & Ors. - Vs - The Divisional Manager, United India Insurance Co. (2014 (2) SCC 735), while dealing with fixation of monthly income of persons employed in unorganised sector, fixed the monthly income at Rs.6,500/-. In the case on hand, the deceased is a first year student of polytechnic and had he completed the course, he would definitely have got himself employed in a decent job and would have earned a good salary. The deceased being an educated person, cannot be equated with unorganised labour. In such view of the matter, the fixation of Rs.6,000/- as the monthly income of the deceased is on the lesser side and by no stretch of imagination could be termed as excessive. Therefore, the fixation of Rs.6,000/- towards monthly income is liable to be confirmed.

7. It is further to be pointed out that the Tribunal, for reasons best known to it, has deducted 10% towards income tax component. The yearly salary is taken for the purpose of deducting income tax and not the total compensation arrived at

towards loss of dependency. Further, the Tribunal has not taken into consideration the future prospective increase in income of the deceased. Had the deceased lived his life, he would definitely have earned a much higher amount. Therefore, non-consideration of the above enures to the benefit of the appellant and, therefore, the compensation arrived at by the Tribunal cannot be said to be excessive.

8. Insofar as the amounts awarded under the heads love and affection and funeral expenses are concerned, the deceased being only 18 years old, the claimants, being the father and mother, have not only lost the love and affection that they would be receiving from the deceased, but also have lost their hold in their life in their old age. No amount of compensation can compensate the loss sustained by them. Therefore, the compensation awarded towards love and affection and funeral expenses cannot be said to be on the higher side or excessive. Accordingly, this Court confirms the compensation awarded under the said heads.

9. For the reasons aforesaid, the appeal, being devoid of merits, is liable to be dismissed. Accordingly, the same is dismissed. Consequently, connected miscellaneous petition is closed.

10. The appellant/Transport Corporation is directed to deposit the entire award amount as quantified by the Tribunal along with interest and costs, less the amount, if any, already deposited to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the respective claimants through RTGS, as per the ratio of apportionment ordered by the Tribunal, within a period of two weeks thereafter.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

rkp/GLN

To

1. Motor Accidents Claims Tribunal
   Special District Judge, Salem.

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

+1 CC to Mr.D. Venkatachalam, Advocate sr 41917.

C.M.A. No.1669 of 2017

PVS(CO)
SP(29/05/2018)