IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.1875 of 2017
and
CMP No.10109 of 2017

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Salamedu, Vazhuthareddy Post,
Villupuram. .... Appellant/Petitioner

Vs.

1. K.Pannerselvam
2. K.P.Karthik
3. Minor K.P.Visvanathan
Rep by her father and natural guardian
The first Respondent herein .... Respondents/Respondents
J.Kanagasabai (died)

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 to set aside the judgment and decree passed in M.C.O.P.No.702 of 2013, dated 24.10.2016, on the file of the Motor Accident Claims Tribunal, The Special Court Tiruvannamalai.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

The first claimant as the husband, second and third claimants as the sons and fourth claimant as father-in-law filed a claim petition in M.C.O.P.No.702 of 2013, claiming compensation of Rs.15,00,000/-in respect of death of one Vijayalakshmi.

The deceased was aged 42 years, working as an Accountant and earning a sum of Rs.12,000/- p.m. at the time of the accident. The accident took place on 07.03.2010.

1.1. The claim petition was filed before Motor Accident Claims Tribunal, Tiruvannamalai and the claims Tribunal, on consideration of materials, awarded a sum of Rs.10,02,944/- as compensation to all the claimants.

1.2. The quantum of compensation is under challenge by the Transport Corporation in this appeal.

2. The main grievance of the learned counsel for the appellant is that there is no valid document filed to prove the income of the deceased; the compensation awarded under the heads 'loss of love and affection' and 'loss of consortium' are on higher side.

3. These contentions are in correct. Despite the salary certificate having been filed, the Tribunal has taken the notional income as the basis, as the salary certificate has not been proved. However, in order to find out as to whether the compensation awarded by the Tribunal is justifiable or not, it is necessary to look into the break up details of the award:-

Loss of income	-	Rs. 7,27,944/-
Loss of consortium to the 1st claimant	-	Rs. 1,00,000/-
loss of love and affection for second claimant	-	Rs. 50,000/-
loss of love and affection for 3rd claimant (Minor)	-	Rs. 1,00,000/-
funeral expenses	-	Rs. 25,000/-
Total	-	Rs.10,02,944/-

3.1. The finding of Tribunal is that though the salary certificate has been filed, it has not been proved through competent witness; that is the person who issued the salary certificate, i.e. employer has not been examined before the Tribunal and therefore the Tribunal did not place reliance upon the certificate produced.

4. However, the Tribunal has taken note of the household services rendered by the deceased in the home as a home maker and has also relied on the celebrated decision of the Hon'ble Apex Court in the case of Syed Sadiq, etc., Vs.Divisional Manager, United India Insurance Co., Ltd., reported in 2014 (1) TNMAC 459 (SC), wherein, for an agriculturist and vegetable vendor, the monthly income has been fixed at Rs.6,500/-.

5. Taking monthly income at Rs.5,000/-, considering 30% increase towards future prospective increase in income, fixing the age as 42, deducting 1/3 personal expenses and adopting the multiplier 14, the loss of dependency has been arrived at (6,500 x 1/3 - 2,167 4,333 x 12 x 14) (Rs.7,27,944/-).

5.1 The loss of love and affection to minor claimant is estimated at Rs.1,00,000/- and equally loss of consortium has been arrived at Rs.1,00,000/-. For the second claimant, loss of love and affection is fixed at Rs.50,000/-, cremation expenses as a standard allotment has been awarded at Rs.25,000/-.

6. Thus, the overall compensation as fixed by the Claims Tribunal is fair and reasonable. Hence the Civil Miscellaneous Appeal is dismissed. Consequently the connected Miscellaneous petition is closed. No costs.

7. The Appellant / Transport Corporation is directed to deposit the entire award amount, along with interest and costs as awarded by the claims Tribunal, less the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgement. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank accounts of the major claimants through RTGS within a period of two weeks thereafter and the share of the minor claimant shall be deposited in a fixed deposit in any one of the Nationalised bank till he attains majority and the interest accrued thereon shall be withdrawn by the guardian of the minor claimant once in three months directly from the bank.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1. Motor Accident Claims Tribunal,
The Special Court Tiruvannamalai.

+1 cc to Mr.K.J.Sivakumar ,Advocate S.R.No.48239

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RSY(CO)
NR 09/10/2017