In the High Court of Judicature at Madras

Dated 06.07.2017

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The Honourable Mr.Justice R.SUBBIAH
and
The Honourable Mr.Justice A.D.JAGADISH CHANDIRA

C.M.A.No.1876 of 2017
and
C.M.P.No.10110 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd,
Coimbatore Division, 37 Mettupalayam Road,
Coimbatore - 641 043 .. Appellant/2nd Respondent

..vs..

1.R. Anbalagan
2.A. Latha
3.A. Shyamaladevi .. Respondents 1 to 3/petitioners
4.R.Thangal .. R4 Respondent/1st Respondent

Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree, dated 05-10-2016, made in M.C.O.P.No.949 of 2014 on the file of the Motor Accidents Claims Tribunal (Special Subordinate Judge), Coimbatore.

For Appellant : Mr.K.J. Sivakumar

JUDGMENT
(Judgment of the Court was delivered by R. SUBBIAH, J.,)

This appeal has been filed by the Tamil Nadu State Transport Corporation Ltd., challenging the award dated 05.10.2016 in M.C.O.P.No.949 of 2014 passed by the Motor Accident Claims Tribunal (Special Subordinate Judge), Coimbatore, awarding a sum of Rs.45,14,000/- as compensation as against the claim of Rs.60 lakhs.

2.The respondents 1 and 2 are the parents and 3rd respondent is the sister of the deceased Kalyanaraman. They are the claimants before the Tribunal. They have made a claim for Rs.60 lakhs, on account of the death of the deceased Kalyanaraman, who died in a motor-accident that had occurred on 22.03.2014 involving a bus belonging to the appellant-Transport Corporation.

3.The case of the claimants before the Tribunal is that on 22.03.2014 at about 7.10 pm, while the said Kalyanaraman was riding his motor-cycle bearing Reg.No.TN 38 BV 1500 from south to north direction on the Sathy Main Road, the bus belonging to the appellant/Transport Corporation came in a rash and negligent manner in the same direction and hit behind the motor-cycle, due to which the said Kalyanaraman lost his balance and he fell down and rear wheel of the bus ran over on his head; as a result, he died on the spot.

4.It is further case of the claimants that at the time of death, the said Kalayanaraman was aged 26 years and he was working as Senior Software Engineer in Robert Bosch Engineering and Business Solution Limited, Keeranatham, Coimbatore and earning a sum of Rs.48,000/- per month. Based on his salary, the claimants have made a claim for a sum Rs.60 lakhs as compensation.

5.In order to prove their claim, on the side of the claimants, the 1st claimant/father examined himself as P.W.1, besides examining an Officer from Human Resources Department of Robert Bosh Engineering and Business Solution Limited, as P.W.2 and an eye witness to the occurrence as P.W.3. and sixteen documents were marked as Ex.P.1 to Ex.P.16. On the side of the Insurance Company, driver of the bus was examined as R.W.1 and no documentary evidence was produced.

6.The Tribunal, after analysing the entire evidence adduced on either side, has come to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant-Corporation, and passed an award for a sum of Rs.45,14,000/- as compensation for the claimants 1 & 2 and dismissed the claim in respect of the 3rd claimant/unmarried sister of the deceased. Aggrieved over the same, the present appeal has been filed by the Transport Corporation.

7.When the matter is taken up for consideration, the learned counsel for the appellant/Transport Corporation submitted that the present appeal has been filed only questioning the quantum of compensation awarded by the Tribunal. With regard to the quantum of compensation, it is submitted by the learned counsel for the appellant/Transport Corporation that in order to prove the income earned by the deceased Kalyanaraman, on the side of the claimants, Salary Slips of the deceased for the months of January & April, 2014 were marked as Ex.P.14 & Ex.P.15 and Salary Certificate was marked as Ex.P.16. The Tribunal, by placing reliance on Ex.P.14 has come to the conclusion that as per the Form-16 summary mentioned in Ex.P.14, the income of the deceased Kalayanaraman was Rs.4,13,934/- per annum; thus, fixed the monthly income of the deceased as Rs.34,495/- per month, rounded off the same as Rs.35,000/- per month. On that basis, the Tribunal has calculated the total loss of income. In this regard, the learned counsel for the appellant/Transport Corporation submitted that in the absence of ocrucial document such as any Income Tax Returns of the deceased Kalayanaraman, reliance placed by the Tribunal upon Ex.P.14 to arrive at a sum of Rs.35,000/- as loss of income per month, is not legally sustainable, since Ex.P.14 is not supported by any other document. According to the learned counsel for the appellant/Transport Corporation, in the absence of Income Tax Return, the Tribunal ought not to have placed reliance on the Form-16 summary mentioned in Ex.P.14. Thus, he sought for proper reduction in the compensation amount awarded by the Tribunal under the head of Loss of Dependency.

8.The learned counsel appearing for the respondents 1 & 3/claimants made his submissions supporting the award passed by the Tribunal.

9.Keeping in view the submissions made on either side, We have carefully gone through the entire materials available on record.

10.The only submission made by the learned counsel appearing for the appellant/Transport Corporation is that the reliance placed by the Tribunal on Ex.P.14 to arrive at a sum of Rs.35,000/- as monthly income of the deceased is not proper, therefore, by fixing a lesser amount, the compensation amount awarded by the Tribunal has to be recalculated.

11.But, on a perusal of the materials available on record, We find that Ex.P.14 to 16 viz., Pay Slips and Salary Certificate were marked through the Officer, Human Resources Department of Robert Bosh Engineering and Business Solution Ltd, who was examined as P.W.2 and the said Pay Slips & Salary Certificate were issued by the Employer of the deceased Kalayanaraman. Particularly, in Ex.P.14, Pay Slip for the month of Feb-2014, Form 16 summary was mentioned and as per the said document, the income of the deceased Kalayanaraman was Rs.4,13,934/- per annum. When that being so, the contention of the learned counsel for the appellant-Transport Corporation that the reliance placed by the Tribunal upon Ex.P.14 is not correct, cannot be accepted. Further, We find that no challenge was made to Ex.P.14 during the cross-examination of P.W.2. Under such circumstances, We do not find any infirmity in the calculation made by the Tribunal by placing reliance on Ex.P.14.

12.Further, on perusal of the materials on record, We find that the Tribunal, by placing reliance on Ex.P.14, has arrived at a sum of Rs.4,13,934/- as annual income of the deceased Kalayanaraman; thereby calculated the monthly income of the deceased as Rs.34,495/- rounded off the same as Rs.35,000/-. Thereafter, the Tribunal has added 50% of the amount as future prospects. By adding the future prospects, the salary of the deceased was fixed at Rs.52,500/- per month by the Tribunal. Thereafter, by following the dictum laid down in the case of Sarala Verma Vs. Delhi Transport Corporation [2009-5-LW 561], the Tribunal deducted 50% of the amount as personal expenses and thereafter, by applying the multiplier of 17, the Tribunal arrived at a sum of Rs.53,55,000/- as total loss of dependency. Thereafter, the Tribunal deducted 20% of the amount towards income tax and thus, the Tribunal arrived a sum of Rs.42,84,000/- as the loss of dependency. Absolutely We do not find any infirmity in the calculation made by the Tribunal to arrive at a sum of Rs.42,84,000/- as loss of dependency.

13.That apart, the Tribunal has awarded a sum of Rs.2,00,000/- towards loss of love and affection to the parents. Considering the fact that the respondents 1 & 2 herein have lost their only son in the accident. We do not find any infirmity in awarding a sum of Rs.2,00,000/- towards loss of love and affection. Further, the Tribunal has awarded a sum of Rs.25,000/- for funeral expenses and a sum of Rs.5,000/- for loss of estate. Thus, the Tribunal has passed the award for a total sum of Rs.45,14,000/- as compensation to the respondents 1 & 2. Considering the facts and circumstances of the case, We are of the opinion that the compensation amount awarded by the Tribunal appears to be very reasonable and the same needs no interference from this Court.

14.In the result, the appeal is dismissed, confirming the award passed by the Tribunal. The Appellant/Transport Corporation is directed to deposit the entire award amount, after deducting the amount if any already deposited, with proportionate interest, as awarded by the Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 & 2/parents are permitted to withdraw the same at their respective shares.

Consequently, connected CMP is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

(ssv)

Copy to_

The Special Subordinate Judge,
The Motor Accidents Claims Tribunal
Coimbatore.

+1cc to M/s.K.J.Sivakumar, Advocate, S.R.No.47060

C.M.A.No.1876 of 2017

KS(CO)
CU(23/08/2017)