IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 14.06.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.1965 of 2017
and
C.M.P. No.10628 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
Thiruvannamalai Region,
Thenimalai, Thiruvannamalai. .. Petitioner

versus

1. M. Badmavathy
2. M. Satheesh Kumar
3. M. Gomathi
4. M. Loganathan
5. G. Thirumalai Pillai .. Respondents

This Petition filed under Section 173 of the Motor Vehicles Act, 1989 to set aside the Judgment and decree passed by the Motor Accident Claims Tribunal Judge, (District Judge, District Court -II, Kanchipuram) made in MCOP.No.1189 of 2010 dated 20.11.2014.

For Appellant : Mr.P.Paramasivadoss

J U D G M E N T

The deceased, Mathavan, aged 48 years, employed as Mason, earning a sum of Rs.12,000/- per month died in an accident that occurred on 29.11.2007. The legal representatives of the deceased, viz., wife, children and father deceased filed claim petition claiming compensation in a sum of Rs.10,00,000/=.

2. The Tribunal, on appreciation of oral and documentary evidence, awarded a sum of Rs.6,63,400/- as compensation the break up of which is as hereunder :-

Compensation for loss of dependency	Rs.4,68,000/-
Future Prospects 30%	Rs.1,40,400/-
Funeral Expenses	Rs. 5,000/-
Loss of consortium	Rs. 10,000/-
Loss of Love and affection	Rs. 40,000/-
Total	Rs.6,63,400/-

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

3. The learned counsel appearing for the petitioner submit that the Tribunal ought not to have fixed the monthly income at Rs.4,500/- but should have fixed the same at Rs.3,000/- per month. It is the further contention of the appellant that the claimants 2, 4, 5 cannot be considered as dependent on the deceased and, therefore the compensation awarded has to be reduced.

4. A perusal of the order passed by the Tribunal reveals that the age of the deceased has been fixed at 48 years on the basis of the post-mortem certificate. Though the claimants have claimed that the deceased was earning a sum of Rs.12,000/= per month, however, in the absence of any documentary evidence to prove the income, the Tribunal fixed the income of the deceased at Rs.4,500/= and deducting 1/3rd towards the personal expenses of the deceased and adopting multiplier of 13, has quantified the loss of dependency at Rs.4,68,000/= (Rs.3000 X 12 X 13). The Tribunal, on the basis of the notional income fixed, awarded 30% towards the future prospective increase in income of the deceased and making the necessary deduction, quantified the compensation towards future prospects at Rs.1,40,400/-. The Tribunal further awarded a sum of Rs.5,000/- towards funeral expenses; Rs.10,000/= towards loss of consortium and Rs.10,000/= each to claimants 2 to 5 towards love and affection. In all, the Tribunal awarded a sum of Rs.6,63,400/= as compensation.

5. Though it is the contention of the learned counsel appearing for the appellant that the compensation awarded is on the higher side, however, the said contention is liable to be rejected for the simple reason that the fixation of monthly income at Rs.4,500/- is on the lower side. Though no documentary proof has been filed to substantiate the income, however, even in case of persons employed in unorganised sector, the Supreme Court in Syed Sadiq's case (2014 (2) SCC 735) has fixed the monthly income at Rs.6,500/-. The Tribunal has fixed the income conservatively at Rs.4,500/- and, therefore, by no means the said amount could be said to be excessive. Accordingly, the compensation awarded towards loss of dependency is confirmed.

6. Insofar as the compensation awarded under the other heads are concerned, it is seen that very minimal amount has been awarded as compensation towards loss of consortium, loss of love and affection and funeral expenses. The said sums are very meager and cannot be said to be excessive. Therefore, no interference is called for with the compensation awarded under

those heads. Accordingly, the same are confirmed.

7. For the reasons aforesaid, the civil miscellaneous appeal is liable to be dismissed and, accordingly, the same is dismissed. Consequently, connected miscellaneous application is closed.

8. 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-IV)

True Copy

Sub-Assistant Registrar

rkp/GLN
To

1. Motor Accidents Claims Tribunal
   District Judge, District Court -II,
   Kanchipuram.

2. The Section Officer, VR Section,
   High Court, Madras.(2 copies)

C.M.A. No.1965 of 2017

SS(CO)
SP(25/05/2018)