

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2017

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.500 of 2016
& C.M.P.No.4221 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
No.27 Railway Station New Road,
Kumbakonam, Periya Milagu Parai,
Trichy District

... Appellant/Respondent

..Vs..

1. Pappayee
2. Ponnusamy
3. Ponnammal
4. Sellapappu

... Respondents / claimants

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 09.03.2015, made in MCOP No.1339 of 2013 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Namakkal.

For Appellant : Mr. D.Venkatachalam

For Respondents : Mr. Ma.Pa.Thangavel

J U D G M E N T
सत्यमेव जयते

As against the claim made for a sum of Rs.8,00,000/- in respect of death of Perumal, the Tribunal awarded a sum of Rs.6,95,000/-, to the claimants / respondents herein, who are the wife, son and daughters, respectively. The breakup details of the compensation are as under:-

Loss of future income	-	Rs.2,70,000/-
Loss of consortium to the first claimant	-	Rs.1,00,000/-
Loss of love and affection to R-2 to R-4-	-	Rs.3,00,000/-
Cremation expenses	-	Rs. 25,000/-

Total	-	Rs.6,95,000/-

2. While fixing the loss of income, the Tribunal has taken the monthly income of the deceased at Rs.6,000/-. Relying upon the decision reported in the case of Reshma Kumari and others v. Madan Mohan and another, 1/4th was deducted towards personal expenses of the deceased. Adopting multiplier of 5, the loss of dependency has been calculated (Rs.6,000/- x 12 = Rs.72,000/- (-) 1/4th towards the personal expenses (Rs.54,000/-) - Rs.54,000/- x 5 = Rs.2,70,000/-).

3. The main grievance of the learned counsel for the appellant is that, when the respondents 2 to 4 are majors, having their own income, not depending upon the earnings of the deceased, deduction ought to have been made at 1/3rd and not 1/4th. It is further contended that the award on the loss of consortium and loss of love and affection are exorbitant and it requires reduction to a considerable extent.

3.1. The contention of the appellant is well founded, so far as the deduction on account of the personal expenses is concerned. No doubt, the claimants are large in number. But all the claimants are not dependents, excepting the wife, the first respondent herein. Therefore, deduction should have been 1/3rd towards the personal expenses of the deceased and not 1/4th. If that formula is adopted, the loss of dependency would be Rs.2,40,000/- (Rs.6,000/- x 12 = Rs.72,000/- (-) 1/3rd towards the personal expenses (Rs.48,000/-) - Rs.48,000/- x 5 = Rs.2,40,000/-).

4. The loss of love and affection to R-2 to R-4 is estimated at Rs.75,000/- each and hence, the compensation on account of loss of love and affection gets reduced from Rs.3,00,000/- to Rs.2,25,000/-. The compensation awarded under other heads are reasonable and hence, the same are confirmed.

5. Thus, the total amount of compensation is reduced from Rs.6,95,000/- to Rs.5,90,000/-. The amount of compensation, as ordered by this Court shall be deposited by the appellant / Transport Corporation, less the amount already deposited, along with interest at 7.5% per annum, from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this judgment.

5.1. On such deposit being made, the first respondent / first claimant / wife is permitted to withdraw a sum of Rs.3,65,000/-, along with proportionate interest, and respondents 2 to 4 / claimants 2 to 4 are permitted to withdraw a sum of Rs.75,000/- each, along with the proportionate interest.

5.2. If the entire amount as ordered by the Claims Tribunal has been deposited by the appellant already, after satisfaction of the award amount, the appellant is entitled to withdraw the balance amount lying in Court deposit.

6. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected CMP is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

srk

To

1. Motor Accident Claims Tribunal, Additional District Judge,
Namakkal.

+1cc to Mr.Ma.Pa.Thangavel,Sr.39344

+1cc to Mr.D.Venkatachalam,Advocate sr.39337

C.M.A.No.500 of 2016
& C.M.P.No.4221 of 2016

pvs(co)
ss(27/7/2017)



WEB COPY