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IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 05.01.2017

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THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No. 181 of 2014

The Tamil Nadu State
Transport Corporation
Having office at Periyamaligaparai
Trichirappalli .. Appellant/Respondent

versus

1. Premlatha
2. Minor Boomashri
minor represented by her nex
friend and mother premalatha
3. Ramani .. Respondents/Petitioners

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 20.02.2013 made in M.C.O.P.No.241 of 2012 on the file of the Motor Accident Claims Tribunal, Principal District and Sessions Judge, Ariyalur.

For appellant : Mr.D.Venkatachalam

For respondents: Mr.R.Gokula Krishnan (R1)
No appearance (R2 and R3)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation, challenging the quantum of compensation awarded by the Tribunal in MCOP No.241/2012 vide order dated 20.02.2013, on the ground that the compensation awarded is exorbitant and that the accident was not caused due to the negligence on the part of the driver of the bus belonging to the appellant/Transport Corporation.

2. On 19.07.2012, while the deceased Srinivas was riding his Hero Honda Splendor bike bearing registration No.TN 61 A 7495, and was nearing Thiruvaiyaru near Kasthuribai Nagar, the bus, belonging to the appellant/Transport Corporation, bearing Registration No.TN 45 N 2466, coming in the opposite direction, driven in a rash and negligent manner, hit against the motor cycle resulting in the death of the deceased.



3. The dependents of the deceased, viz., his wife, mother and minor son filed a claim petition in M.C.O.P.No.241 of 2012, claiming compensation in a sum of Rs.15,00,000/-. The Tribunal, considering the oral and documentary evidence awarded a sum of Rs.9,3,0,000/- along with interest @ 7.5% per annum from the date of petition till the date of deposit. Challenging the same, the present appeal has been filed by the appellant.

4. A perusal of the award passed by the Tribunal reveals that the Tribunal has relied upon the evidence of P.W.2, an eye witness, who spoke about the accident, apart from Ex.A-1, the FIR which was lodged against the driver. It is further evident from the records that the evidence of R.W.1, the driver of the bus, contradictory to the averments in the counter filed by the appellant/Transport Corporation before the claims tribunal. Therefore, the Tribunal, relying upon the testimony of the eye witness, P.W.2, has rightly fastened the negligence on the part of the driver of the bus.

5. Insofar as the quantum of compensation is concerned, on the basis of Ex.A-2, post-mortem certificate, and Ex.A-3, death certificate, the age of the was fixed at 28. On the basis of the qualification and salary certificate of the deceased, viz., Exs.A-5, A-6 and A-7, the Tribunal has fixed the notional income of the deceased at Rs.6000/= and after deducting one-third towards personal expenses of the deceased, adopting a multiplier of 18 quantified the loss of income to the family at Rs.8,64,000/= (Rs.4000 X 12 X 18).

6. However, it is the submission of the learned counsel for the appellant that in respect of age group between 26 and 30, the multiplier of 17 should be adopted and not 18.

7. For calculating the loss of income, the Tribunal has adopted a multiplier of 18. It is the contention of the learned counsel for the appellant, relying on the ratio laid down by the Supreme Court in a catena of decisions, that the deceased falls within the age group of 26 to 30 years and that the multiplier, which ought to have been adopted is only 17 and not 18.

8. The above contention of the learned counsel for the appellant is well founded and that for quantifying the pecuniary loss in case of persons, who are aged between 26 and 30 years, the multiplier to be adopted is 17. In such view of the matter, the Tribunal having fixed contribution of the deceased to the family per month at Rs.4,000/=: adopting the multiplier of 17, the amount towards loss of income should have been quantified at Rs.8,16,000/= (Rs.4,000 X 12 X 17). However, the pecuniary loss has been wrongly quantified at Rs.8,64,000/=: which is in excess by Rs.48,000/=:



9. Insofar as the compensation awarded under the other heads, viz., loss of consortium, loss of love and affection, loss of estate and funeral expenses are concerned, the quantification of compensation by the Tribunal cannot be said to be excessive and, therefore, they are liable to be sustained. Though the Tribunal has not taken into consideration the future prospective increase in income for arriving at the loss of income, however, the claimants not having filed any appeal for enhancement, this Court is not inclined to award any amount under the head "future prospects". The interest awarded at 7.5% p.a. on the compensation amount from the date of petition till date of deposit is confirmed.

10. In the above circumstances, the appeal is allowed in part reducing the compensation awarded under the head "Loss of Income" by Rs.48,000/=. Quantification of compensation under all the other heads stand confirmed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

11. The appellant/Transport Corporation is directed to deposit the amount on the basis of the determination arrived at by this Court, less the amount, if any, already deposited by it, along with accrued interest, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the major claimants, on filing necessary application, shall be permitted to withdraw their respective share of compensation.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

arr/GLN



To

1. The Motor Accident Claims Tribunal,
Principal District and Sessions Judge, Ariyalur.

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

+1 cc to Mr.P.Venkatachalam Advocate sr 1188

C.M.A. No.181 of 2014

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