IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2017

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2079 of 2017
and C.M.P.No.11066 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram Division II) Limited,
Rangapuram, Vellore 632 009 ... Appellant

..Vs..

1. V.Muthulakshmi @ Lakshmi
2. V.Parthiban
3. V.Jagadeesan @ Jagathis
4. V.Saranya
5. S.Kanthammal
6. Kathiravan
R-6 represented by the appellant,
TNSTC (given up) ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 19.09.2016, made in M.C.O.P.No.15 of 2014 on the file of the Motor Accident Claims Tribunal, I Additional District and Sessions Court, Vellore.

For Appellant : Mr. P.Paramasiva Doss

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J U D G M E N T

The deceased Perumal @ Venkatesa Perumal, aged 47, Milk Vendor, earning a sum of Rs.25,000/- per month, died in an accident, on 14.04.2011.

2. The Legal Representatives, who are claimants 1 to 5 / respondents 1 to 5 herein, as wife, sons, daughter and mother, have filed the claim petition, for compensation, claiming a sum of Rs.25,00,000/-.

3. As against the claim made for a sum of Rs.25,00,000/-, the Tribunal has passed an award for a sum of Rs.12,22,600/-, as per the breakup details:-

Loss of income	-	Rs.9,90,600.00
Loss of consortium	-	Rs.1,00,000.00
Loss of love and affection	-	Rs.1,00,000.00
Funeral expenses	-	Rs. 25,000.00
Transport expenses	-	Rs. 5,000.00
Damages to cloths and articles	-	Rs. 2,000.00
		Rs.12,22,600.00

4. The quantum of compensation is under challenge by the Transport Corporation.

5. The main contention raised by the learned counsel for the appellant is that the income fixed by the Tribunal at Rs.6,350/- is excessive and when the deceased had been employed in an unorganized sector and doing self-business, addition of 30% towards the future prospective increase in income is not justified.

6. To appreciate the contention, it is necessary to look into the break-up details of the award passed, which is detailed in paragraph 3, supra.

7. Relying upon the decision reported in the case of Rajesh v. Rajbir Singh and others, 2009 (2) TN MAC 36 (SC) : CDJ (2013) SC 485, the Tribunal has passed an award for a sum of Rs.25,000/-, with an observation that the funeral expenses include not only the fee paid for crematorium or cementary, but also the religious practices and conventions performed on the death in the family.

8. So far as the loss of love and affection is concerned, conventional amount of Rs.1,00,000/- is granted covering for the claimants 2 to 5 together, apart from loss of consortium to P-1 at Rs.1,00,000/-.

9. The main contention of the learned counsel for the appellant / Transport Corporation is only with regard to the loss of income awarded to the family of the deceased.

9.1. The Tribunal has relied upon the decision reported in 2009 (2) TN MAC 1 (SC) (Sarla Verma and others v. Delhi Transport Corporation) to gain support for the proposition that when the deceased was aged 40-50, addition should be 30% towards the future prospective increase in income. In case of self-employees also, the proposition has been made applicable. Further, deriving support from the subsequent decision of the Hon'ble Supreme Court in the case of Rajesh v. Rajbir Singh and others, 2009 (2) TN MAC 36 (SC) : (CDJ 2013 SC 485), the annual income of the deceased has been fixed at Rs.6,500/- and for the age of 47, the multiplier of 13 has been adopted and after deducting 1/4th towards the monthly and personal expenses of the deceased, the quantum of compensation has been arrived at.

10. Even in respect of the accident that took place in the year 2008, the Hon'ble Supreme Court, for an agriculturist, has already taken the monthly income at Rs.6,500/-, deriving support from the case of Sadiq and others v. Divisional Manager, United India Insurance Co. Ltd., 2014 ACJ 627. Therefore, the monthly income fixed, in this case, cannot be said to be excessive. It is relevant to point out that when the deceased had been able to support and provide sustinence to the family consistig of five members, the logical inference is that the deceased might have been earning more than Rs.6,500/-. The addition of 30% towards future prospective increase in income also is supported by the decision of Santhosh Devi v. National Insurance Company Limited and others, 2012 (2) TN MAC 1 (SC), decided by the Hon'ble Supreme Court.

11. In such circumstances, the Appeal has no merits and therefore, the Civil Miscellaneous Appeal is dismissed. No costs.

12. The amount, as ordered by the Claims Tribunal, 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 six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the disbursement of compensation amount to the claimants shall be made as per the proportion indicated by the Claims Tribunal. On such deposit being made, the Tribunal shall transfer the amount to the Savings Bank Accounts of the major claimants through RTGS. No costs. Consequently, the connected CMP is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

srk

To
1. Motor Accident Claims Tribunal,
I Additional District and
Sessions Court, Vellore.

2.The Managing Director
Tamil Nadu State Transport Corporation Ltd;
Villupuram division II Rangapuram
Vellore-632 009

+1 cc to Mr.P.Paramasivadoss Advocate sr 55890

C.M.A.No.2079 of 2017
& C.M.P.No.11066 of 2017

mr(co)
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