IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2017

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.2116 of 2014

Kalai Selvi ... Appellant/2nd Respondent

..Vs..

1. Subramaniyan
2. Bakyalakshmi ..Respondents 1 & 2/Petitioners 1 & 2

3. The Depot Manager,
Andhra Pradesh State Road Transport
Corporation Limited, Alipiri, Thirupathi
...3rd Respondents/Respondents 1

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 13.03.2012, made in MCOP No.151 of 2010 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Vridhachalam.

For Appellant : Mr. B.Srinivasan

For Respondents : Mr. R.Ganesh, for R-1 & R-2,
Ms. G.V.Shobha, for R-3

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J U D G M E N T

In respect of the death of Saranraj, aged 20 years, Mason by profession, earning a sum of Rs.15,000/- per month, the father and the unmarried sister of the deceased filed a claim petition, claiming a sum of Rs.15,00,000/-. In the claim petition, the mother has been added as the second respondent. The Tribunal has awarded a sum of Rs.3,81,000/-, as compensation, and the break up details are as follows:-

Loss of Life	-	Rs. 3,51,000/-
Love and affection (Rs.10,000/- x 2 for P-1 to P-2)	-	Rs. 20,000/-
Ambulance	-	Rs. 5,000/-
Funeral	-	Rs. 5,000/-
		Rs. 3,81,000/-

2. This award amount has been directed to be apportioned between the father (the first petitioner), the mother (the second respondent) in the claim petition and the amount ordered to be payable was Rs.1,00,000/- to the father and Rs.2,81,000/- to the mother. Nothing has been awarded to the unmarried sister, but the order did not read that the claim petition has been dismissed as against the unmarried sister.

3. Challenging the award as inadequate, the mother of the deceased has filed the Appeal, in which the father and unmarried sister are respondents 1 and 2 and the Transport Corporation is the third respondent.

4. The learned counsel for the appellant as well as respondents 1 and 2 would submit that, when a documentary evidence has been produced to show that the monthly income of the deceased was Rs.12,000/-, the Tribunal is not justified in rejecting the income certificate and to fix the income at Rs.4,500/- per month. It is to be pointed out that even though the income certificate has been filed, the employer who issued the certificate has not been examined and therefore, the Tribunal has fixed the monthly income at Rs.4,500/-. Taking into account the age of the father and the mother, the multiplier of '13' has been adopted. The deceased, being bachelor, 50% of the income has been deducted towards personal and living expenses. Thus, the loss of dependency has been quantified by applying the formula Rs.2,250/- x 12 x 13 = Rs.3,51,000/-.

4.1. It is also contended by the appellant that the multiplier of '13' adopted is improper and the multiplier of '18' should have been adopted, having regard to the age of the deceased.

4.2. This contention is supported by the decision of the Hon'ble Supreme Court reported in the case of U.P.S.R.T.C. v. Trilok Chandra (1996) 4 SCC 362, G.M., Kerala SRTC v. Susamma Thomas (1994) 2 SCC 176 it has been held as follows :-

> "... Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected. This does not mean ascertaining the number of years he would have lived or worked but for the accident. Having regard to several imponderables in life and economic factors, a table of multipliers with reference to the age has been identified by this Court. The multiplier should be chosen from the said table with reference to the age of the deceased."

5. The next issue to be decided is fixing of the monthly income. Though it is true that the salary certificate of the deceased has been filed and though the employer has not been

examined, yet fixing of the monthly income at Rs.4,500/- is meager and it ought to have been fixed at least at Rs.6,000/- having regard to the job the deceased was doing. Therefore, the monthly income is taken at Rs.6,000/- per month. Deducting 50% towards the personal expenses of the deceased, the monthly income should be Rs.3,000/- and adopting the multiplier of '18', the loss of dependency would be Rs.6,48,000/- (Rs.3,000/- x 12 x 18).

6. Since the parents have lost their son, who was only aged 20 at the time of accident, the amounts awarded towards the loss of love and affection is very low and hence, Rs.50,000/- (Rs.25,000/- to each of the parents) is awarded. Awarding Rs.10,000/- each towards transport and Funeral expenses, the compensation is quantified.

6.1. As against the implied dismissal of the claim petition as against the second respondent herein, no appeal has been taken by the second respondent. The second respondent is being supported by the father and even before this Court, no claim has been made justifying the reason for making the claim. Hence, the claim petition as against the second respondent stands dismissed.

7. In the result, this Civil Miscellaneous Appeal is partly-allowed, by enhancing the total compensation from Rs.3,81,000/- to Rs.7,18,000/- and this amount of compensation shall be deposited by the third respondent / 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. There is no liability to pay interest, if any, in respect of the period during which there had been delay in respect of which, condonation of delay has been ordered, subject to waiver of interest. On such deposit being made, the parents (father and mother of the deceased) are permitted to withdraw the entire amount of compensation, in equal proportion. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

srk

To
1. Motor Accident Claims Tribunal, Additional Sub Court, Vridhachalam

2. The Section Officer, V.R.Section, High Court, Madras

+1cc to Mr.B.Srinivasa,Advocate sr.1411

+1cc to Mr.R.Ganesh,Advocate sr.1412

C.M.A.No.2116 of 2014

vsn(co)
ss(11/4/2017)