IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.08.2017
CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2655 of 2017
and
C.M.P.No.14651 of 2017

The General Manager,
Tamil Nadu State Transport Corporation
Villupuram .... Appellant/Respondent in Trial Court

Vs.

1.Kamatchi
2. Mallika
3. Sakthivel
4. Santhiya
5. Kumaravel .... Respondents/Petitioners in Trial Court

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 to set aside the judgment and decree passed in M.C.O.P.No.121 of 2010, dated 12.04.2016, on the file of Motor Accident Claims Tribunal, the Subordinate Court Cheyyar.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

The deceased, Duraikkannu, aged 60 years, doing carpentry and agricultural works, earning a sum of Rs.7,000/- per month, died in an accident that took place on 15.10.2009. The legal heirs of the deceased filed the claim petition, claiming a sum of Rs.9,00,000/- as compensation.

2. It is the case of the claimants that on 15.10.2009, when the deceased was going in a bicycle at Arasampattu village to his native place Maanickamangalam village, the bus belonging to the appellant Corporation driven by its driver in a rash and negligent manner and hit against the deceased in which he died.

3. The Tribunal on a consideration of the materials has awarded compensation at Rs.5,00,000/- and the break up details are as follows:-

Loss of Dependency	-	Rs.3,60,000/-
Loss of Consortium	-	Rs. 50,000/-
Loss of Love & Affection	-	Rs. 60,000/-
Cremation Expenses	-	Rs. 25,000/-
Transport Expenses	-	Rs. 5,000/-
Total		Rs.5,00,000/-

Challenging the compensation awarded as excessive, the appellant has preferred this appeal.

4. The main contention of the learned counsel for the appellant corporation is that the Tribunal did not make any deduction towards personal living expenses of the deceased and therefore the quantification has to be reduced proportionately.

5. A perusal of the order passed by the Tribunal reveals that the Tribunal has not deducted any amount towards the personal expenses of the deceased. It has been time and again held that a certain deduction needs to be made towards the personal expenses of the deceased. Further, the order of the Tribunal reveals that the Tribunal has adopted multiplier of 6. When the Tribunal has fixed the age of the deceased at 60 years, the proper multiplier to be adopted is 5. However, it is to be pointed out that the Tribunal has not considered future prospective increase in income of the deceased.

6. Though it is the contention of the appellant that the monthly income fixed at Rs.6,000/- is on the higher side, the said contention lacks merit in view of the ratio laid down by the Supreme Court in Syed Sadiq's case (2014 (2) SCC 735), wherein the Supreme Court has held that even for an unskilled labour, the monthly income should be fixed at Rs.6,500/-. Though the ratio has been laid down in the said decision in the year 2014, however, the accident in the said case also related to previous point of time. Therefore, fixation of Rs.6,000/- towards monthly income at 15% in the absence of considering future prospective increase in income cannot be said to be on the higher side and it is low and it should have been fixed at Rs.8,000/-. Deducting 1/4th towards personal expenses and adopting multiplier of 5, the loss of dependency would be Rs.3,60,000/-.

7. Further, it is to be pointed out that the compensation awarded towards love and affection at Rs.15,000/- each to the sons and daughters of the deceased is very much on the lower side. However, this Court is not inclined to interfere with the same at this distant point of time. Insofar as the compensation awarded under the other heads are concerned, the compensation under those heads are reasonable and cannot be said to be either

excessive or disproportionate. Accordingly, the same are confirmed.

8. For the reasons aforesaid, this Civil Miscellaneous Appeal is dismissed. Consequently, connected Civil Miscellaneous petition is closed. No costs.

9. The Appellant / Transport Corporation is directed to deposit the entire award amount, along with interest and costs as determined by the Tribunal, 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 judgement. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the savings bank account of the respective claimants through RTGS, as per the ratio of apportionment made by the claims Tribunal, within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kv/gln

To

1.The Motor Accident Claims Tribunal,
the Subordinate Judge Cheyyar.

copy to

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

C.M.A.No.2655 of 2017

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