

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2017

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA
C.M.A.No.2725 of 2017
and
C.M.P. No.15322 of 2017

Metropolitan Transport Corporation Ltd.,
Rep. By its Managing Director,
Pallavan Salai,
Chennai - 2. ... Appellant/Respondent

Versus

1. R.Revathi
2. Minor Manikandan @ Mani
3. Minor R. Muthukumar ... Respondents/Petitioners

Minors represented by their Mother R. Revathi
Natural Guardian and Next Friend.

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the fair and decreetal order dated 13.12.2013 passed in M.C.O.P. No.4806 of 2011 by the III Judge, Small Causes Court, Motor Accident Claims Tribunal, Chennai.

For Appellant : Mr.S.S.Swaminathan

JUDGEMENT

As against the claim made for a sum of Rs.20,00,000/-, the Tribunal has passed an award for a sum of Rs.11,16,000/-

2. The deceased, Rajangam, aged about 40 years, employed as an auto driver and earning a sum of Rs.15,000/-p.m. (@ Rs.500/- per day) died in the accident that took place on 30.08.2011. The claimants, viz., the wife and sons of the deceased, filed claim petition claiming compensation in a sum of Rs.20,00,000/=.

3. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.11,16,000/- under various heads as compensation. Aggrieved against the said compensation awarded, the Transport Corporation has filed this appeal.

4. The main contention raised by the learned counsel for the appellant / Transport Corporation is that the award of pecuniary loss by applying multiplier of "15", is on the higher side. It is further submitted that the compensation awarded under the head loss of consortium and funeral expenses are also higher.

5. This Court gave its anxious consideration to the contentions advanced by the learned counsel on either side and also perused the materials available on record as also the judgment passed by the Tribunal.

6. The Tribunal on a consideration of the materials available on record, came to the conclusion that the accident took place only on account of the rash and negligent driving on the part of the Driver of the Appellant Transport Corporation. Based upon the postmortem certificate (Ex.P4), Death Report, (Ex.P5) and death certificate (Ex.P6), the age of the deceased had been fixed as 40 years. Following the ratio laid down in Sarla Verma's case, appropriate multiplier of "15" has been adopted. Though the claimants claimed that the deceased was earning a monthly income of Rs.15,000/=, however, the Tribunal, in the absence of any documentary evidence to substantiate the same, conservatively fixed the monthly income at Rs.6,000/- p.m.. The Tribunal relying upon the decision of the Hon'ble Supreme Court in the case of Minu Rout and another Vs. Satya Pradyumna Mohapatra and others (2013 (2) TNMAC 385 (SC)), where, the Supreme Court, in the facts of the said case, in respect of the deceased aged 35 years, has fixed the monthly income at Rs.6,000/- and adding 30% towards future prospective increase, the monthly income was fixed at Rs.7800/-.

7. On the basis of the above, the Tribunal quantified the compensation payable to the claimants at Rs.9,36,000/= (Rs.5200 X 12 X 15). A perusal of the reasoning given by the Tribunal to arrive at the quantification of compensation, by no means could be termed to be unsustainable. The Tribunal has recorded valid findings and cogent reasons for arriving at the compensation. Therefore, this Court is of the considered view that the compensation awarded under the head pecuniary loss does not require any interference.

8. Insofar as the award of a sum of Rs.1,00,000/- towards loss of consortium and Rs.20,000/- towards funeral expenses, loss of love and affection to minor children at Rs.30,000/- each i.e. a sum of Rs.60,000/- is concerned, the Tribunal, on the basis of the decisions of the Supreme Court has granted the above compensation, which cannot be found fault with. Further, the award towards loss of consortium and loss of love and affection are justifiable compensation keeping in mind the age of the deceased. Definitely the claimants, viz., the wife and sons have been deprived of the care and affection of the deceased and, therefore, the compensation awarded under the said heads cannot be said to be excessive or disproportionate.

9. In all, the Tribunal has awarded a sum of Rs.11,16,000/- as compensation, which, in the facts and circumstances of the case, is a justifiable and reasonable compensation. Accordingly, this Court confirms the award passed by the

Tribunal.

10. For the reasons aforesaid, there being no merits, the appeal is liable to be dismissed. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. Consequently, connected Miscellaneous Petition is closed. No costs.

11. The Transport Corporation is directed to deposit the award amount, as determined by the Claims Tribunal, less the amount, if any, already deposited, with interest @ 7.5% p.a., from the date of petition till the date of deposit to the credit of the claim petition within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the Savings bank account of the major claimant through RTGS within a period of two weeks thereafter. Insofar as the compensation awarded to the minor claimants are concerned, the same shall be kept in an interest bearing fixed deposit till the claimants attain majority. The interest accruing on the said deposit shall be paid to the 1st claimant once in three months for the welfare of claimants 2 and 3.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsi2/GLN

To

1. III Judge, Small Causes Court, Motor Accident Claims Tribunal,
Chennai.

2. The Section Officer, सत्यमेव जयते
V.R. Section,
High Court, Madras - 104.

sm:22.3.2018

C.M.A.No.2725 of 2017

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