IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. No.2888 of 2017
and
C.M.P. No.16930 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation (VPM) Ltd.,
Villupuram,
Tiruvannamalai Region. ... Appellant

Versus

1.A. Jothi
2. A. Kailasam
3. K.Ramalingam
4.K. Kavitha ... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 24.01.2017 made in M.C.O.P. No.283 of 2014 on the file of the Motor Accident Claims Tribunal, The District Court II Kanchipuram.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

The first and second claimants as the parents, 3 and 4 claimants as brother and sister of the deceased have filed the claim petition for compensation in respect of death of A.K.Dharmalingam.

2. The deceased, aged 21 years, employed as a Store keeper Assistant at T.V.S. Logistics Services, Audco Industries, Kanchipuram, earning a sum of Rs.12,000/-p.m., died in an accident that took place on 07.04.2014. Contending that there is loss of support and loss of love and affection, the claimants have filed the claim petition claiming a sum of Rs.15,00,000/- as compensation.

3. As against the said claim, the Tribunal, on

consideration of oral and documentary evidence, awarded a sum of Rs.10,42,000/- as compensation, the break-up details of which is as under :-

Loss of Dependency	-	Rs. 9,72,000/-
Funeral & Transport Expenses	-	Rs. 20,000/-
Love & Affection (Rs.25,000/- X 2)	-	Rs. 50,000/-
Total		Rs.10,42,000/-

Challenging the award as excessive, the Transport Corporation has filed this appeal.

4. The main contention raised by the learned counsel for the appellant is that in the absence of any document proving the age and income of the deceased, the Tribunal ought not to have fixed the monthly income at Rs.6,000/-.

5. In order to appreciate the contentions raised, it is necessary to look into the reasonings given by the Tribunal in arriving at the age and income of the deceased.

6. The Tribunal has given a finding that no document has been filed to prove the income of the deceased. Identity card, Ex.P8 has been filed to show that the deceased had been working at TVS Logistics Services Limited. The Tribunal held that the said document was not sufficient to establish the income of the deceased. Therefore, the Tribunal has relied on the following decisions, wherein the Supreme Court has laid down the guidelines to be followed in fixing the age and income in cases where documentary evidence has not been filed to substantiate the same :-

i) Sri Ramachandrappa Vs. The Manager, Royal Sundaram Alliance Company Ltd. (2011 (13) SCC 236).

ii) Syed Sadiq & Ors. Vs. Divisional Manager, United India Insurance Company Ltd. (CDJ 2014 SC 044).

iii) Munna Lal & Anr. Vs. Vipin Kumar Sharma & Ors. (CDJ 2014 SC 476)

7. Therefore, taking the parameters laid down in the said decisions, the Tribunal fixed the age and income of the deceased. While the Tribunal fixed the income of the deceased at Rs.6,000/- adding 50% towards future prospective increase in income and deducting one-half towards the personal expenses, adopting multiplier of 18, the loss of dependency was quantified at Rs.9,72,000/= (Rs.4,500/- x 18 x 12).

8. The above approach of the Tribunal cannot be said to

be unreasonable or unjustified. The Tribunal, following the ratio laid down in the decisions noted above, has fixed the age and income of the deceased. Though the appellant contends that the age and income of the deceased has been wrongly fixed, however, the findings recorded by the Tribunal and the reasons assigned thereto are based on legal enunciations propounded by the Supreme Court and, therefore, this Court feels that no interference is warranted on the above aspect.

9. Insofar as the compensation awarded under the head loss of love and affection to the parents viz., claimants 1 and 2 at Rs.25,000/- each, aggregating to Rs.50,000/-; and award of Rs.20,000/- towards funeral and transport expenses, is concerned, the said amounts are just and reasonable and cannot be termed to be excessive and accordingly, the same are confirmed.

10. In all, the Tribunal has awarded a sum of Rs.10,42,000/- as total compensation. The above award has been passed by the Tribunal on the basis of settled legal principles and this Court concurs with the findings and reasonings given by the Tribunal and, accordingly, the appeal is liable to be dismissed.

11. For the reasons aforesaid, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Miscellaneous Petition is also closed. No costs.

12. The appellant / Transport Corporation is directed to deposit the entire award along with interest @ 7.5% per annum from the date of petition till the date of deposit and costs, as ordered 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 judgment. On such deposit being made, the Tribunal is directed to transfer the award amount as per apportionment directly to the bank account of the claimants through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

vsi2/GLN

To

1.The District Court II,
The Motor Accident Claims Tribunal,
Kanchipuram.

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

+1cc to Mr.K.J.Siva Kumar, Advocate SR.No.71287

C.M.A. No.2888 of 2017

MG(CO)
GN(09/03/2018)