

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.296 of 2017
and
C.M.P.No.2124 of 2017

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Anna Salai,
Chennai - 2. Appellant / Respondent

versus

1. G.Manjula
2. Minor G.Gobika
3. Minor G.Dharshni
(Minors are represented by their
mother G.Manjula)
4. K.Renuka Devi Respondents / Claimants

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree 18.12.2012 made in M.C.O.P.No.1576 of 2011 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Cuddalore.

For Appellant : Mr.S.Sivakumar

For Respondents : M/s.Ramya V.Rao

JUDGMENT

In respect of death of K.Gunalan, aged 29 years, a Fisherman by profession, earning a sum of Rs.10,000/- p.m., in an accident on 21.12.2010, the wife, two minor children, mother of the deceased filed a claim petition in M.C.O.P.No.1576 of 2011 before the Motor Accident Claims Tribunal (Principal District Judge), Cuddalore, claiming compensation of Rs.25,00,000/-.

1.1. As against the claim made, the Tribunal has awarded a sum of Rs.12,02,500/- as compensation. The break-up details of the compensation read as under:

Loss of dependency	-	Rs. 11,47,500/-
Loss of love and affection	-	Rs. 40,000/-
Funeral expenses	-	Rs. 2,500/-
Transport charges	-	Rs. 2,500/-
Loss of consortium	-	Rs. 10,000/-

Total	-	Rs.12,02,500/-
-------	---	----------------

Assailing the quantum of compensation as excessive, the Transport Corporation has filed this appeal.

2. The contention of the learned counsel appearing for the appellant is that the Tribunal has erroneously granted award on various heads to the tune of Rs.12,02,500/- and this arbitrary award has to be reduced.

3. In order to appreciate the contention as raised herein, it is necessary to look into the details of the award passed.

3.1. Taking the monthly income of deceased at Rs.7500/-, annual income has been calculated at Rs.90,000/- and deducting 1/4th towards personal expenses, Rs.67,500/- has been taken as monthly dependency of the deceased. Having regard to the age of the deceased as 29 years, the multiplier of 17 has been adopted and loss of dependency has been quantified at Rs.11,47,500/-.

4. The learned counsel appearing for the respondents would point out that the loss of future prospective increase in earning ought to have been taken by the Tribunal, especially when the deceased was aged only 20 years and when there are two minor claimants. It is settled position that future prospective increase in income ought to be considered, but, it is not considered in this case.

5. It is relevant to point out that there is no appeal filed by the claimant challenging the award on the ground of loss of dependency or any other ground. However, it is the duty of the Court to award just compensation and thus there is no impediment for this Court to consider whether the compensation awarded is just or not, even in the absence of any appeal having been filed by the claimant. This proposition is rendered in Appeal (civil) 7989 of 2002, dated 03/12/2002 in the case of Nagappa vs. Gurudayal Singh & Ors.

6. It is the contention of the learned counsel appearing for the respondents that loss of consortium should have been awarded at least at Rs.1,00,000/- to the first claimant, loss of love and affection should have been awarded at Rs.1,00,000/- each to the second and third respondents and Rs.50,000/- to the fourth claimant and Rs.25,000/- towards funeral expenses.

7. This contention is well founded and it is supported by the decision of the Honourable Supreme Court in the case of Rajesh vs. Rajbir Singh, reported in 2013 (9) SCC 54, where, in respect of an accident took place in the year 2007, compensation of Rs 1,00,000/- each was awarded towards loss of consortium to spouse and loss of care and guidance to each of minor children respectively and Rs.25,000/- was awarded towards funeral expenses.

8. Accordingly, the award is modified. Loss of consortium to the first respondent is enhanced to Rs.1,00,000/- and loss of love and affection is enhanced to Rs.2,50,000/- (for two children at the rate of Rs.1,00,000/- each and for mother at the rate of Rs.50,000/-) and funeral expenses is enhanced to Rs.25,000/-. The break-up details of the compensation read as under:

Loss of dependency	-	Rs. 11,47,500/-
Loss of love and affection	-	Rs. 2,50,000/-
Funeral expenses	-	Rs. 25,000/-
Transport charges	-	Rs. 2,500/-
Loss of consortium	-	Rs. 1,00,000/-
Total	-	Rs.15,25,000/-

9. In the result, the Civil Miscellaneous Appeal is dismissed while enhancing the compensation from Rs.12,02,500/- to Rs.15,25,000/-, which is payable with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

10. The Transport Corporation is directed to deposit the entire amount of compensation, less the amount already deposited if any, with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit, the first and fourth claimants are permitted to withdraw their share amounts as per the ratio of apportionment

as ordered by the Tribunal. The minors' share shall be deposited in the fixed deposit in any one of the Nationalized Bank, for a period of three years, till they attain majority. The mother of the minors shall withdraw the interest accrued thereon once in three months. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ogy

To

1. The Principal District Judge,
(Motor Accident Claims Tribunal),
Cuddalore.

2.The Section Officer,
VR Section, High Court, Chennai.

+1cc to Mr.A.N.Viswanath Row, Advocate Sr.10265

C.M.A.No.296 of 2017

tm[co]
srg 14/06/2017



सत्यमेव जयते

WEB COPY