IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 23.01.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.64 of 2017
and
CMP.No.64 of 2017

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

versus

1.Mrs.Poonkuzhali
2. Minor Pravin Raj
3.Minor Praeep Raj .. Respondents/Petitioners
(Minors are represented by their mother and Natural Guardian Mrs. Poonkuzhali)

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree made in M.C.O.P.No.2897 of 2013 dated 18.03.2015 on the file of the Motor Accident Claims Tribunal (Chief Court of Small Causes), Chennai.

For appellant : Mr.S.Sivakumar

J U D G M E N T

The deceased, Yuvaraj, aged 46 years, Musician, earning a sum of Rs.18,500/- per month, met with an accident on 27.8.2012 and succumbed to the injuries. The Claimants, who are the minor sons along with the wife of the deceased, filed a petition for compensation.

2. The Tribunal, on consideration of oral and documentary evidence, quantified the compensation at Rs.9,14,000/-. The break-up details of the same are as under:

Loss of pecuniary benefits (7000x2/3 x12x14)	-	Rs.7,84,000/-
Loss of consortium to the first claimant	-	Rs. 25,000/-
Loss of love and affection	-	Rs. 75,000/-

(25,000 each)

Funeral Expenses	-	Rs.	5,000/-
Transport Expenses	-	Rs.	5,000/-
			Rs.9,14,000/-

Challenging the compensation awarded as excessive, the present appeal has been filed by the appellant/Transport Corporation.

3. It is the submission of the learned counsel for the appellant that the fixation of income at Rs.7,000/- is on the higher side, the claimants having not substantiated the same through proper documentary evidence. It is therefore contended that the income should have been fixed on the lesser side and, accordingly, the compensation requires to be reduced.

4. A perusal of the award passed by the Tribunal reveals that Ex.P13-salary certificate has been filed by the claimants to show that the deceased was earning a sum of Rs.9,000/- per month. The order further reveals that Ex.P-12, another salary certificate filed by the claimants reveal that the deceased was employed as Musician (Dabela) from the year 2000 till his death and that he was getting a sum of Rs.9500/- per month. However, Ex.P13- salary certificate shows that the deceased was working as a supervisor from 05.10.2010 till his demise and was getting a salary of Rs.9000/- per month. Since the two salary certificates were contradictory to each other, the Tribunal, holding that Musician have no employment, conservatively fixed the monthly income of the deceased at Rs.7,000/- per month. The said finding rendered by the Tribunal cannot be said to be erroneous. The Tribunal has given proper and justifiable reasons for arriving at the said finding. Therefore, the same is confirmed. The Tribunal, to arrive at the loss of dependency, by deducting 1/3rd towards personal expenses of the deceased from the salary, awarded a sum of Rs.7,84,000/- towards loss of dependency. However, the Tribunal has not taken into consideration the future prospective increase in income of the deceased. In such circumstances, the compensation quantified towards loss of income at Rs.7,84,000/- cannot be said to be excessive or unreasonable and, accordingly, the same is confirmed.

5. Insofar as the compensation awarded under the heads loss of consortium, loss of love and affection and funeral expenses are concerned, the said compensation cannot be said to be unreasonable or excessive. The compensation under those heads could only be said to be on the lower side. Therefore, the same

warrants no interference and, accordingly, the same are confirmed.

6. For the reasons aforesaid, there being no merits, this appeal is liable to be dismissed and, accordingly, the same is dismissed, confirming the award dated 18.03.2015 in MCOP No.2897 of 2013. Consequently, connected miscellaneous petition is also dismissed.

7. The appellant/Transport Corporation is directed to deposit the award amount along with interests 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 Judgement. On such deposit being made, the Tribunal is directed to transfer the same directly to the bank account of the respective claimants through RTGS, within a period of two weeks thereafter, as per the ratio of apportionment ordered by the Tribunal.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

arr/GLN

To

1. Motor Accident Claims Tribunal, (The Chief Judge)
   Court of small Causes, Chennai.

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

C.M.A. No.64 of 2017

NMI(CO)
SP(03/04/2018)