IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.726 of 2017

and

C.M.P.No.4006 of 2017

Tamil Nadu State Transport Corporation,
Coimbatore Division,
Rep. by its Managing Director,
No.37, Mettupalayam Road,
Coimbatore - 641 043 ...Appellant/2nd Respondent

vs.

1. Hasna
2. Minor Shahina
3. Minor Shalu
4. Sulikha
5. K.Sekar ...Respondents/Petitioners 1 to 4 and 1st Respondent

[Minors represented by next friend, guardian and mother Hasna/1st respondent]

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgement and Decree in MCOP No.1657 of 2013 dated 09.10.2015 on the file of Motor Accident Claims Tribunal, [1st Additional District Judge], Tirupur.

For Appellant : Mr.J.Lokesh

For Respondents: Mr.Ma.Pa.Thangavel (for R1 to R4)

J U D G M E N T

[Order of the Court was made by S.MANIKUMAR, J.]

Challenging the quantum of compensation of Rs.32,51,000/-, with interest at the rate of 7.5% per annum, from the date of claim till realisation, with costs awarded in MCOP No.1657 of 2013, on the file of Motor Accident Claims Tribunal, [1st Additional District Judge], Tirupur, Tamilnadu State Transport Corporation, Coimbatore, is on appeal. As the challenge is restricted to quantum, there is no need to delve into the aspect of negligence and liability.

2. According to the legal representatives of the deceased, at the time of accident, he was a driver aged about 23 years. On his wheels, he died. Wife, aged about 23 years, two minor daughters aged about 5 years and 1 year respectively and mother aged about 40 years, were the claimants. Though, a sum of Rs.25,000/- was claimed as monthly income, the tribunal fixed the same as Rs.12,000/- per month. Having regard to the decision of the Hon'ble Supreme Court in Reshma Kumari and others v. Madan Mohan reported in (2009) 13 SCC 422, the tribunal added 50% of the income of the deceased towards future prospects and computed the annual income as Rs.2,16,000/-. As there are four dependants, tribunal deducted 1/4th towards personal and living expenses of the deceased. At the time of accident, the deceased was aged 23 years. Therefore, the tribunal by applying '18' multiplier computed the loss of contribution to the family as Rs.29,16,000/-. Towards loss of consortium to the wife, tribunal has awarded Rs.1,00,000/-. A sum of Rs.1,00,000/- has been awarded under the head loss of love and affection. Under the head, loss of care and guidance for the minors, the tribunal has awarded a further sum of Rs.1,00,000/-. Sum of Rs.25,000/- for funeral expenses and Rs.10,000/- for transportation, has been awarded. Altogether, the tribunal awarded a sum of Rs.32,51,000/-, with interest at the rate of 7.5% per annum, from the date of claim till realisation as compensation and costs, as hereunder.

Loss of dependency	:	Rs. 29,16,000/-
Loss of consortium to the wife/1st petitioner	:	Rs. 1,00,000/-
Loss of care and guidance for minor	:	Rs. 1,00,000/-
Loss of love and affection for petitioners	:	Rs. 1,00,000/-
Funeral Expenses	:	Rs. 25,000/-
Transport Expenses	:	Rs. 10,000/-
Total	:	Rs. 32,51,000/-

3. Though Mr.Lokesh, learned counsel for the transport Corporation assailed the correctness of the award, on the grounds inter alia that the tribunal has awarded excess compensation under the head loss of dependency by taking Rs.12,000/- as monthly income, this Court is not inclined to accept the same, for the reason that to provide food, shelter, clothing to the dependants and to meet out the expenditure of electricity and water charges, one may require a reasonable income. In the case on hand, there are four dependants. Compensation of Rs.50,000/- awarded to each of the minors aged about 5 years and 1 year, respectively, under the head loss of care and guidance is less. Perusal of the judgment shows that the tribunal has not awarded any compensation under the head loss of estate and conventional damages.

4. On the contention that income tax has not been deducted, perusal of the award shows that the accident has occurred on 18.09.2013 and the income arrived at by the tribunal is Rs.2,16,000/-. As the ceiling limit for the year 2013-14 is Rs.2,50,000/-, income tax need not be deducted.

5. In view of the above discussion, we are of the view that there is no merit in the Civil Miscellaneous Appeal and the same is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

6. Consequent to the dismissal of the appeal, the appellant-Tamilnadu State Transport Corporation, Coimbatore, is directed to deposit the entire award amount with interest at the rate of 7.5% per annum, from the date of claim and costs, to the credit of MCOP No.1657 of 2013 dated 09.10.2015 on the file of Motor Accident Claims Tribunal, [1st Additional District Judge], Tirupur, within a period of four weeks from the date of receipt of a copy of this order.

7. Respondents 2 and 3 were minors at the time of filing of the claim petition. On such deposit being made, except the minors, the respondents/claimants 1 and 4 are permitted to withdraw their share, as apportioned by the tribunal, by making necessary applications. The share apportioned to the minors/respondents 2 and 3, shall be in the bank deposit till they attain majority. The interest accruing on the share of the minors shall be paid to the 1st respondent/mother of the minors once in three months, till they attain majority. On attainment of majority, they shall file necessary applications for withdrawal.

Sd/-
Assistant Registrar

//True Copy//

ars Sub Assistant Registrar

To
The Motor Accident Claims Tribunal,
[1st Additional District Judge], Tirupur

+1cc to Mr.Thangavel, Advocate, S.R.No.14941
+1cc to Mr.Sivakumar, Advocate, S.R.No.14913

NM(CO)
RS(24/03/2017)

C.M.A.No.726 of 2017
and
C.M.P.No.4006 of 2017