IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.890 of 2017

and C.M.P.No.4354 of 2017

The Managing Director,
Tamilnadu State Transport Corporation,
Coimbatore. ... Appellant/2nd respondent

versus

1. Grace Rani
2. Sotiya
3. Meri Soniya
4. Sebastian
5. Rubiya
6. Savariammal ... Respondents 1 to 6/Petitioners
7. Subramanian ... 7th respondent/1st respondent
(R7 is given up)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 20.10.2010 made in M.C.O.P.No.1052 of 2008 on the file of the Motor Accident Claims Tribunal and Addl. Sub Court at Tiruppur.

For Appellant	:	M/s.R.T.Sundari
For Respondents 1 to 6	:	Mr.Ma.Pa.Thangavel

JUDGMENT

The deceased Peter @ Anthonisamy aged about 46 years, a Manager in Tenth Fabs, Tirupur, earning a sum of Rs.10,000/- p.m. died in an accident on 11.08.2008. Hence, the claimants filed a claim petition in M.C.O.P.No.1052 of 2008 before the Motor Accident Claims Tribunal and Addl. Sub Court at Tiruppur, claiming compensation of Rs.25,00,000/-.

2. As against the claim made, the Tribunal has awarded a sum of Rs.12,52,000/- as compensation, payable with interest at the rate of 7.5% p.a. from the date of petition till the date of

deposit.

3. Challenging the quantum of compensation, the Transport Corporation has filed this appeal.

4. The learned counsel appearing for the appellant would submit that the loss of dependency awarded at Rs.11,70,000/- and award of Rs.50,000/- towards loss of love and affection and award of Rs.25,000/- towards loss of consortium are excessive.

5. In order to appreciate the contention raised by the learned counsel for the appellant, it is necessary to look into the break-up details of the compensation.

5.1. The age of the deceased has been taken as 50 years, based upon the Ex.P2-Postmortem Certificate and Ex.P3-Death Certificate. In both the certificates, the age of the deceased has been shown as 50 years. Based on Ex.P5-salary certificate, the monthly income of the deceased has been fixed at Rs.10,000/-. As there was six dependents, personal expenses has been reduced only by 25%. Taking the monthly income of the deceased at Rs.7,500/- and adopting the multiplier of '13', the loss of dependency has been assessed at Rs.11,70,000/-; awarding Rs.2,000/- towards transport expenses, Rs.25,000/- towards loss of consortium, Rs.50,000/- towards loss of love and affection; Rs.5,000/- towards funeral expenses, the total compensation has been quantified at Rs.12,52,000/-.

5.2. It would be relevant to point out that future prospective increase in income at 30% ought to have been considered, but, not considered and therefore, the award cannot be said to be excessive. This contention is well founded. This contention is supported by the decision in the case of Rajesh v. Rajbir Singh, reported in (2013) 9 SCC 54, which reads as follows:

> "Motor Vehicles Act, 1988 Ss. 166 and 168 - Fatal accident - Computation of compensation - Future prospects of deceased - Consideration of - Addition to be made to actual income of deceased (which existed at the time of his death) towards his future prospects - Rule laid down as to, in Sarla Verma, (2009) 6 SCC 121 in relation to salaried persons - Subsequently clarified and also made applicable to persons self-employed or engaged on fixed wages in Santosh Devi, (2012) 6 SCC 421 - Further clarified herein in relation to self-employed persons or those on fixed wages - Different additions to actual income for different age groups of such persons - Specified - Held, in case of self-employed persons or persons with

fixed wages, the actual income of the deceased must be enhanced for purpose of computation of compensation: (i) by 50% where his age was below 40 yrs, (ii) by 30% where he belonged to age group of 40 to 50 yrs, and (iii) by 15% where he was between age group of 50 to 60 yrs - However, no such addition/enhancement permissible where deceased exceeded the age of 60 yrs."

6. As it is submitted by the learned counsel for the claimant, future prospective increase in income has not been taken into account by the Tribunal. Furthermore, the compensation towards loss of love and affection should have been awarded at Rs.1,00,000/- and not Rs.50,000/-. Therefore, the award cannot be said to be excessive.

7. Hence, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 20.10.2010 passed in M.C.O.P.No.1052 of 2008 by the Motor Accident Claims Tribunal and Addl. Sub Court at Tiruppur.

9. The Transport Corporation is directed to deposit the entire amount of compensation along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimants are permitted to withdraw their share of the amount as per the apportionment made by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
1. The Motor Accident Claims Tribunal
and Addl. Sub Court,
Tiruppur.

2. The Managing Director,
Tamilnadu State Transport Corporation,
Coimbatore.

MG(CO)
RS(27/06/2017)