

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.M.A.No.859 of 2014

1. M. Meenatchi
2. G.Mani
3. M. Kasthuri

... Appellants

vs.

The General Manager
Tamilnadu State Transport Corporation
Villupuram Limited, Thiruvannamalai
Region, Thenmalai, Thiruvannamalai

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 24.08.2010 made in MCOP No.494 of 2008 on the file of the Motor Accident Claims Tribunal, (Subordinate Judge), Kanchipuram.

For Appellant : Mr.C. Prabakaran
For Respondent : Mr.K.J. Sivakumar

JUDGMENT

The parents of the deceased-10 years old boy are the claimants, who have preferred an appeal for enhancement of the award of compensation granted in M.C.O.P.No.494 of 2008 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Kanchipuram. There is no challenge to the negligence which is held against the respondent vehicle. The only challenge is with respect to the quantum of the award passed by the tribunal.

2. The deceased was stated to be studying in 10th Standard and his age is taken to be at 15 years. The age is also confirmed by the School Certificate marked as Ex.P.4. As a student, he is a non-earning member and there is no dependency for the members of the family on him. However, while awarding the compensation, the Tribunal had taken the notional income as Rs.15,000/- p.a. based on the decision in Sarala Verma Vs. Delhi Transport Corporation reported in (2009) 2 TN1 MAC Page No.11. The age of the parents are 42 years for the father and 38

years for the mother. Following the said decision in Sarala Verma case, as the deceased was 15 years old, the multiplier of 18 has been adopted and the Tribunal awarded a sum of Rs.2,70,000/- as pecuniary loss and in addition to the same, a sum of Rs.10,000/- each for Funeral Expenses and Loss of Love and Affection respectively have been awarded. The said award is under challenge now.

3. The only contention of the learned Counsel for the appellants is that based on the decision in Kishan Gopal and another vs. Lala and others reported in 2013 (2) TN MAC 358 (SC), in which the Honourable Supreme Court has held that for non-earning members, the notional income can be taken at Rs.30,000/- p.a. considering the age of the parents also at the time of accident and also by applying the principles laid down in Sarala Verma case. In the said decision, the Honourable Supreme Court has taken Rs.30,000/- as notional income for the non-earning members. Extending the same principle to the case on hand, taking 30% as annual notional income and adopting the multiplier of 15, the compensation comes to Rs.4,50,000/-.

4. The accident had occurred in the year 2008 and the funeral expenses of Rs.10,000/- awarded at the relevant point of time is correct. So far as the Loss of Love and Affection is concerned, considering the fact that the parents/claimants have lost their only son, this Court is inclined to enhance the same to Rs.20,000/-.

5. Accordingly, the amount awarded under the head of pecuniary loss to the family of the deceased is enhanced to Rs.4,50,000/- and Rs.10,000/- towards Funeral Expenses and Rs.20,000/- towards Loss of Love and Affection, in all, totalling to a sum of Rs.4,80,000/- (Rupees Four Lakhs and Eighty Thousand Only) with interest at 7.5% p.a. from the date of the petition till the date of deposit.

6. Accordingly, the appeal is partly allowed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The General Manager
Tamilnadu State Transport Corporation
Villupuram Limited, Thiruvannamalai
Region, Thenmali Thiruvannamalai

+1 CC to M/s. C/ Prabakaran, Advocate sr 14666
+1 CC to Mr. K.J. Sivakumar, Advocate sr 14914

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