IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2017

CORAM : THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

CMA.No.980 of 2012
and M.P.No.1 of 2012

The Managing Director,
Tamil Nadu State Transport
Corporation (Salem-II) Ltd.,
Salem.
Regional Office : Dharmapuri. ... Appellant/Respondent

Vs.

1.Chithra
2.Minor M.Ranith
3.Minor M.Ranjitha
4.Sakunthala ... Respondents 1 to 4/ Petitioners

(Respondents 2 and 3 are Minors represented by their next friend and mother 1st respondent Chithra)

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.03.2011 made in M.A.C.T.O.P.No.1117 of 2009 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Dharmapuri.

For Appellant : Mr.D.Venkatachalam

For Respondents R1 : Mr.Sriram

JUDGMENT

The respondent in MCOP.No.1117/2009 before the MACT has come forward with this appeal challenging the quantum of compensation awarded. On 29.09.2009 at about 6.30 p.m. a certain Muniraj while riding his motor cycle with his wife, the first claimant, in the pillion, along Uthangarai – Samalpatti road, he was fatally knocked down by a rashly and negligently driven State Transport Corporation bus bearing TN 29-N-1664. He was 32 years at that relevant time and was engaged in supply of mangoes to the industries manufacturing mango pulp. He left behind himself surviving his young widow, two children and his mother as dependants. Seeking a claim of Rs.15,00,000/- for the death of Muniraj, his heirs approached the Tribunal below. The Tribunal on evaluating the evidence before it, has passed an award for Rs.7,95,000/- payable with interest at 7.5% per annum. The break up details is as follows :

Heads	Amount awarded (Rs.)
Towards loss of dependency	7,65,000.00
Loss of consortium	5,000.00
Loss of love and affection @ Rs.5,000/- each for two children and his mother	15,000.00
Towards transport and funeral expenses	10,000.00
Total :	7,95,000.00

In arriving at the value of loss of dependency, the Tribunal has reckoned the income of the deceased annually at Rs.60,000/- notionally as no documentary evidence was produced, and deducted 1/4th of the said amount towards personal expenses of the deceased and applied a multiplier of 17 to arrive at the amount of Rs.7,65,000/- on this head. After adding the damages awarded on other non-pecuniary heads of compensation, it passed an award amount stated above.

2. The learned counsel for the appellant contended that the Tribunal was wrong in adopting 17 as a multiplier, especially when the claimants have failed to produce any credible evidence to prove the age of the deceased.

3. The learned counsel for the respondent however, argued that even if the submission of the appellant counsel is found tenable as to the choice of multiplier still the fact remains on that other heads of non-pecuniary damages the Tribunal has been unduly erred in awarding compensation.

4. On a close scrutiny of the damages awarded for non-pecuniary heads such as loss of consortium in a case of fatal accident that took place in 2009, compensation as low as Rs.5,000/- alone has been awarded. So also was the compensation awarded for loss of love and affection for the children. Therefore, even if the multiplier is adjusted, the same shall have to be distributed as

against the other heads of non-pecuniary damages. In the final analysis, it is not likely to alter the total quantum of compensation awarded by the Tribunal.

5. In the result, there is no merit in the appeal, hence this Civil Miscellaneous Appeal is dismissed. The Appellant / Transport Corporation is directed to deposit the award of the Tribunal, less the amount if any, already deposited in Court within six weeks from the date of receipt of a copy of this order, whereupon the claimants/respondents would be entitled to the share as apportioned by the Tribunal and the major claimants/respondents would be entitled to withdraw the same, forthwith and the share of the minor claimants/respondents shall be deposited in a fixed deposit reinvestment scheme, in any one of the nationalised bank, till they attains majority and the interest accrued thereon shall be withdrawn by the 1st respondent once in three months for the minors and the same shall be utilised for the welfare of the minors respondents. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

ssn/ds
To

1. The Motor Accident Claims Tribunal
   Principal District Judge,
   Dharmapuri.

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

+1cc to M/S.D.Venkatachalam, Advocate Sr. 55223
+1cc to Mr.Sriram, Advocate Sr. 56339

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PPA(CO)
VR(03/10/2017)