IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA
C.M.A.No.2215 of 2017
and
C.M.P. No.11778 of 2017

The General Manager,
Tamil Nadu State Transport Corproation
Thiruvannamalai Region, Thenimalai,
Thiruvannamalai ... Appellant/Respondent

Versus

1. S. Alamelu
2. S.Suresh
3. S.Revathy
4. S.Jayashri
5. S.Rekha
6. S. Dhurga
7. S.Mathivanan
8. T.Ponnammal ...Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to set aside the order and decree passed by the Motor Accident Claims Tribunal, Kanchipuram (District Judge, District Court - II), Kanchipuram made in MCOP No.57 of 2014, dated 23.04.2015.

For Appellant : Mr.P.Paramasivadoss

JUDGMENT

The deceased, Sekar, aged 54 years, earning a sum of Rs.15,000/= died in an accident, which occurred on 04.11.2013. The legal representatives of the deceased, viz., claimants 1 to 7 and the mother, who is the 8th claimant, have filed the claim petition claiming compensation in a sum of Rs.15,00,000/- before the Motor Accident Claims Tribunal, Kanchipuram by filing M.C.O.P. No.57 of 2014.

2. It is the case of the claimants that the deceased Sekar was aged 54 years working as a noon meal organiser in Kolivakkam village Government Primary School, and also partly doing Milk Business and Agriculturist, earning a sum of Rs.15,000/- p.m..

He died in an accident that took place on 04.11.2013.

3. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.4,60,000/- as compensation under the following break up details :

| | | |
|---|---|---|
| Compensation for loss of dependency | : | Rs.3,46,016/- |
| Funeral expenses | : | Rs. 8,984/- |
| Loss of Love and affection (petitioners 2 to 8 each Rs.15,000/-) | : | Rs.1,05,000/- |
| Total | | Rs.4,60,000/- |

Challenging the said award as excessive, the Transport Corporation has filed the appeal.

4. The learned counsel for the appellant submits that the Tribunal should have adopted split multiplier as the deceased would have retired within nine months, even if he was alive. The loss of dependency therefore should have been calculated by taking half of the monthly income of the deceased namely Rs.7,864/- x 1/2 x 12 x 3/4 x 7 which would works out to Rs.1,21,103/- instead of awarding Rs.3,46,016/- by using the multiplier of '10'.

5. In order to appreciate the grounds raised in the appeal, it is necessary to consider the details of the award and also peruse the evidence available on record.

6. The first claimant is the second wife of the deceased and the claimants 2 to 7 are the children of the deceased and the 8th claimant is the mother of the deceased and the 8th claimant is the mother of the deceased The age of the deceased had been fixed based upon the date of birth that is mentioned in identity card, viz., Ex.P7, which reflects the date of birth as 07.05.1954. Accordingly, the Tribunal fixing the age of the deceased as 57 years at the time of accident, has adopted the appropriate multiplier of 9.

7. To show the income, salary certificate has been filed according to which the deceased was receiving an income of Rs.7864/- p.m. Deducting 1/3rd towards the personal expenses of the deceased, yearly contribution to the family has been quantified till retirement at Rs.7864 x 12 x 2/3 = 62,912/-. The Tribunal, while fixing the income of the deceased after retirement, has taken half the salary which was earned by the deceased while in the present employment quantified the income at Rs.3932 and deducting 1/3rd towards personal expenses and adopting multiplier of '9', quantified the loss of income to the family at Rs.2,83,104/-. Therefore, in all, a total sum of Rs.3,46,016/- (Rs.2,83,104/- + Rs.62,912/-) was quantified as

compensation under the head loss of dependency. Though the Tribunal has not taken into consideration the future prospective increase in income of the deceased, has however reasoned the same by pointing out that since the age of the deceased is 57 years, the possibility of increase in income of the deceased at a future point of time is remote. Therefore, the quantification of the Tribunal under the head loss of dependency and awarding a sum of Rs.3,46,016/- is justified and warrants no interference.

8. The Tribunal has awarded a sum of Rs.8,984/- towards funeral expenses and Rs.1,05,000/- towards loss of love and affection to the claimants 2 to 8 at the rate of Rs.15,000/- each, thus, making a total of Rs.4,60,000/- as compensation. Though the compensation awarded under the head loss of love and affection is slightly on the lesser side, considering the age of the deceased and also the age of the claimants, this Court is of the opinion that no interference is called for with the compensation awarded under the head loss of love and affection. The compensation awarded by the Tribunal at Rs.4,60,000/- is a fair and reasonable compensation and cannot be said to be excessive or unreasonable. There is no merits in the appeal and the appeal is liable to be dismissed.

9. For the reason aforesaid, the civil miscellaneous appeal is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

10. The appellant/Transport Corporation is directed to deposit the entire award amount along with interest 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 Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the claimants through RTGS within a period of two weeks thereafter as per the ratio / apportionment fixed by the Tribunal.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1. Motor Accident Claims Tribunal, Kanchipuram
   (District Judge, District Court - II), Kanchipuram

2. The Section Officer,
   V.R. Section,
   High Court, Madras - 104.

C.M.A.No.2215 of 2017

SJ(CO)
SP(27/03/2018)