IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2017

CORAM:

THE HON'BLE DR.JUSTICE.S.VIMALA

Civil Miscellaneous Appeal No.2082 of 2017
and C.M.P.No.11064 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram Division - II),
Rangapuram, Vellore ... Appellant

Vs

1. Sulochana
2. Ravi ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set-aside the decree and Judgment, dated 28.09.2016 made in MCOP No.49 of 2013 on the file of Motor Accident Claims Tribunal, I Additional District and Sessions Court, Vellore.

For Appellant : Mr. P.Paramasivadoss

JUDGMENT

The award passed for a sum of Rs.11,85,000/-, as against the claim made for a sum of Rs.35,00,000/-, in respect of death of Sathiyaraj, aged 24, a Mason, earning a sum of Rs.25,000/- per month, is under challenge by the Transport Corporation.

2. The main contention raised by the learned counsel for the appellant

is that the age of the parents should have been the criteria in deciding the quantum of compensation and that the monthly income should have been fixed at the rate of Rs.3,000/- per month and not at Rs.6,500/- per month and therefore, the quantum of compensation needs reduction.

3. The parents of the deceased, Sathiyaraj, claimed the claim petition in MCOP No.49 of 2013 claiming a sum of Rs.35,00,000/- as compensation.

4. The Tribunal, on a consideration of the materials, has passed an award for a sum of Rs.11,85,000/- and challenging the same, this Appeal has been filed.

5. The grounds of challenge require perusal of the reasons, which propelled the Tribunal to pass the award for Rs.11,85,000/-. The Tribunal has considered the age of the deceased as '22', based upon the postmortem certificate filed. So far as the income of the deceased is concerned, the Tribunal, finding that there was no documentary evidence to show the income and considering the socio-economic conditions, has fixed the daily income at Rs.200/- per day. Relying upon the decision reported in the case of **Sadiq and others v. Divisional Manager, United India Insurance Co. Ltd., 2014 ACJ 627**, the monthly income has been fixed at Rs.6,500/-. Adding 50% towards the future income, based on the decision reported in the case of **Rajesh and others v. Rajbir Singh and others (2013) 2 TNMAC 55 (SC) : 2013 (9) SCC 54**, the annual income has been quantified at

Rs.1,17,000/- (Rs.6,500 x 12 + (39,000)).

6. The deceased, having been a bachelor, 50% has been reduced towards the personal and living expenses of the deceased and contribution has been taken at Rs.58,500/- per annum. So far as the selection of multiplier in respect of bachelor is concerned, the decision reported in the case of **Amirt Bhanu Shali v. National Insurance Co. Ltd., (2012) 2 TNMAC 321 (SC)** has been considered, where the selection of multiplier is held to be based on the age of the deceased and not on the basis of the age of the dependents.

7. The compensation towards loss of love and affection has been quantified relying upon the decision reported in the case of **Asha Verman v. Maharaj Singh, 2015 (1) TNMAC 465 (SC)** where it was held that each and every child is entitled to a sum of Rs.1,00,000/- towards loss of love and affection and each parent is entitled to a sum of Rs.50,000/-. Accordingly, Rs.1,00,000/- is considered for the loss of love and affection for the child. Finally, the quantum of compensation has been quantified with the following breakup details:-

Loss of income	-	Rs.10,53,000.00
Loss of love and affection	-	Rs. 1,00,000.00
Funeral expenses	-	Rs. 25,000.00
Transport expenses	-	Rs. 5,000.00
Damages to cloths and articles	-	Rs. 2,000.00
		Rs.11,85,000.00

8. The award passed by the Tribunal under each and every head is based on the law declared by the Hon'ble Apex Court and it is also reasonable, having regard to the facts and circumstances of this case.

9. In the result, the Appeal has no merits and therefore, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected CMP is closed.

10. The Transport Corporation shall deposit the entire compensation amount, as awarded by the Claims Tribunal and as confirmed by this Court, along with interest at 7.5% per annum, from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. The ratio of apportionment shall be as ordered by the Claims Tribunal. The Claims Tribunal shall pay the amount of compensation to the RTGS Account of the claimants.

02.08.2017

Index : Yes / No
Web : Yes / No
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To

1. Motor Accident Claims Tribunal, I Additional District and Sessions Court, Vellore.
2. The Section Officer, V.R.Section, Madras High Court, Chennai - 104

Dr. S.VIMALA, J.,

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