IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2463 of 2017
and
C.M.P.No.13475 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram at kanchipruam - 631 502 .... Appellant/Respondent

Vs.

1. Seenithai
2. Marudhupandi .... Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, 1988 to set aside the judgment and decree passed in M.C.O.P.No.213 of 2012, dated 22.07.2013, on the file of Motor Accident Claims Tribunal, The Additional District Judge, Kancheepuram, District at chengalpattu.

For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

The deceased Ranjithkumar, aged 24, Proprietor of Ranjith Hotel and petty shop (Self employed), earning a sum of Rs.30,000/- per month, died in an accident on 02.10.2011, in which the two-wheeler, worth about Rs.50,000/- driven by the deceased was damaged. The parents of the deceased filed the claim petition claiming a sum of Rs.30,00,000/- as compensation.

2. The Tribunal, considering the oral and documentary evidence, awarded a sum of Rs.5,50,000/- as compensation. Challenging the award as excessive, the Transport Corporation has filed this appeal.

3. Learned counsel appearing for the appellant submits that the income fixed by the Tribunal, in the absence of any documentary evidence is on the higher side and, therefore, the award needs to be reduced. It is further submitted that deduction towards personal expenses should have been made at 50% and not 1/3rd.

4. Though very many grounds have been raised in the appeal assailing the order of the Tribunal, however, at the time of argument, learned counsel appearing for the appellant restricted his argument only insofar as the quantum of compensation awarded by the Tribunal and, therefore, this Court is dealing only with the said issue pertaining to quantum of compensation.

5. A perusal of the award passed by the Tribunal reveals that the Tribunal taking into account the fact that no document has been produced to show that the deceased was the proprietor of the hotel, fixed the monthly income at Rs.6,000/- per month. Relying upon the death certificate and the Post Mortem Certificate, the age of the deceased had been fixed as 24 and deducting 1/3rd towards personal expenses and the fixing the monthly dependency at Rs.4,000/-, the annual dependency has been quantified at Rs.48,000/- and adopting the multiplier of 11 and taking into account the age of the mother as 52, the total dependency has been quantified at Rs.5,28,000/-. Loss of love and affection has been awarded at Rs.10,000/- each to the father and mother of the deceased and a sum of Rs.2,000/- has been towards funeral expenses. Thus, totally a sum of Rs.5,50,000/- has been awarded.

6. A superficial look at the award passed by the Tribunal reveals that the contention raised by the learned counsel for the appellant relating to deduction at 50% towards personal expenses is justified. But, a deeper analysis of the award passed reveals that the Tribunal though has fixed the income of the deceased at Rs.6,000/- following the ratio laid down in Syed Sadiq's case (2014 (2) SCC 735), in the absence of any documentary evidence, however, has not taken into consideration the future prospective increase in income of the deceased. The Tribunal has also wrongly taken the age of the mother for fixing the multiplier, which is not correct. The age of the deceased should have been taken for the purpose of fixing the multiplier. Had the age of the deceased been taken to fix the multiplier, the compensation would be on the higher side. Therefore, the contention of the learned counsel for the appellant that the compensation awarded is on the higher side is wholly misconceived and is unsustainable.

7. Insofar as the compensation awarded under the heads loss of love and affection and funeral expenses, the amounts are very meagre, not even commensurate with the normal cost of living expense. Therefore, the same cannot be said to be excessive.

8. For the reasons stated above, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Civil Miscellaneous petition is closed. No costs.

9. The Appellant / Transport Corporation is directed to deposit the entire award amount, along with interest and costs, as awarded by the claims 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 judgement. On such deposit being made, the Tribunal shall transfer the amount directly to the savings bank accounts of the claimants through RTGS as per the ratio of apportionment ordered by the Tribunal, within a period of two weeks thereafter.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

kv/GLN

To

1.The Motor Accident Claims Tribunal,
the Additional District Judge, Kancheepuram.

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

C.M.A.No.2463 of 2017
and
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PVS(CO)
SP(10/04/2018)