

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.09.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2744 of 2017

and

C.M.P.No.15481 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
Limited, Villupuram. ... Appellant/Respondent

/Vs/

1. Sadayandi
2.Chinnasellam ... Respondents/Petitioner

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.01.2003 made in M.C.O.P.No.1063 of 1999 on the file of the Motor Accidents Claims Tribunal, (Principal District Judge) Tiruvannamalai.

For Appellant : Mr.G.Muniratnam

JUDGMENT

The parents are the claimants. The claim petition has been filed claiming a sum of Rs.1,50,000/- as compensation in respect of the death of the claimants' son Siva.

2. The deceased, Siva, aged 13 years, a student and an agricultural coolie, earning a sum of Rs.2,000/- per month, died in an accident on 12.11.1999. In respect of the same, the Rishivandhiyam police has registered a case in Crime No.281 of 1999 under Section 304(A). When the claimants moved the claim petition for compensation, the Tribunal has passed an award for a sum of Rs.1,50,000/-, which is under challenge by the Transport Corporation.

3. Quantum is the only point, which is under challenge before this Court.

4. The main contention of the learned counsel for the appellant is that the Tribunal should not have relied upon the evidence of the father, who is an interested witness, in respect of the age, occupation and income of the deceased. Especially, in the absence of documentary evidence being adduced, the Tribunal should not have fixed the monthly income. It is also contended that the Tribunal committed an error in fixing multiplier of 15 and the age of the parents alone should have been considered while fixing the multiplier.

5. In order to appreciate the contention raised, it is necessary to look into the break-up details of the award passed by the Tribunal. No doubt, the father of the deceased has stated in his evidence that the deceased was earning Rs.100/- per day as an agricultural coolie. This part of the evidence, as rightly contended by the learned counsel for the appellant, cannot be true as he is stated to be a student and especially, when the age of the deceased was only 13 years.

6. The fact remains that the potential earning capacity of the deceased is a relevant factor for deciding the loss of income to the family. When the deceased is not a coolie and was not earning any amount, but was admittedly a student, the chances of future pecuniary benefits from the deceased cannot be ruled out. In case of non-earning person, as per the second schedule of the Motor Vehicles Act, the annual income should be taken at Rs.15,000/-. The Tribunal, based on the ratio laid down by the Apex Court in the case of Smt. Sarla Verma and others V. Delhi Transport Corporation and another reported in 2009 ACJ 1298 SC, wherein for the age group of 1 to 15 years, multiplier of 15 has been fixed, has rightly adopted the multiplier of 15, since the deceased was aged 13 years. Therefore, the adoption of 15 as multiplier cannot be faulted with. Calculating on the basis of the above income of Rs.15,000/- after applying the necessary deduction to the personal expenses, the amount of Rs.1,50,000/- awarded by the Tribunal cannot be in any way said to be excessive or exorbitant.

7. It is also to be pointed out that no compensation has been awarded towards transport expenses and loss of love and affection, but still the corporation has chosen to file this appeal.

8. Though on very many heads no compensation has been awarded, however, as the accident has happened in the year 1999 and the claimants having not chosen to file any appeal for enhancement, it may not be proper for this Court to enhance the award amount at this belated point of time.

9. For the reasons aforesaid, there being no merits, this appeal is liable to be dismissed and accordingly, the same is dismissed confirming the award passed by the Tribunal. Consequently, connected miscellaneous petition is closed.

10. The appellant/Transport corporation is directed to deposit the entire award amount along with interest at 9% p.a. from the date of petition till the date of deposit and costs quantified 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 respondents/claimants, through RTGS as per the apportionment fixed by the Tribunal, within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sms/kv/GLN

To

1. The Principal District Judge
The Motor Accidents Claims Tribunal,
Tiruvannamalai.
2. The Section Officer, VR Section,
High Court, Madras.

C.M.A.No.2744 of 2017
and

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