IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.09.2017
CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.2845 of 2017
and
C.M.P.No.16277 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Coimbatore) Ltd., 37, Mettupalayam Road,
Coimbatore - 43 at Erode. .... Appellant/2nd Respondent in Trial Court

Vs.

1.Thangamuthu
2.Minor T.Kousalya
Rep by its Next friend/Guardian Thangamuthu
3.Minor Hariprasad
Rep. By its Next friend/Guardian
Thangamuthu .... Respondents/Petitioners1 to3 in Trial Court

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act, to set aside the Judgment and Decree passed in M.C.O.P.No.641 of 2012, dated 31.03.2015, on the file of Motor Accident Claims Tribunal, Additional Sub Judge, Tirupur.

For Appellant : Ms.R.T.Sundari

For Respondent : Mr.Ma.Pa.Thangavel

J U D G M E N T

The deceased, pazhaniammal, aged 35 years, earning a sum of Rs.6,000/- per month, died in the accident that happened on 26.03.2012. The claimants, the legal heirs of the deceased, have filed the petition claiming compensation in a sum of Rs.15,00,000/-.

2. As against the claim made for a sum of Rs.15,00,000/-, the Motor Accident Claims Tribunal, Additional Sub Judge, Tirupur in MCOP No.641 of 2012 by the judgement dated 31.03.2015 has ordered compensation of Rs.12,85,000/- under the following heads :-

Loss of income	-	Rs.9,60,000/-
Loss of love and affection	-	Rs.3,00,000/-
Cremation expenses	-	Rs. 25,000/-
Total	-	Rs.12,85,000/-

3. Challenging the compensation awarded as exorbitant, the Transport Corporation has filed this appeal.

4. The only challenge made in this appeal is with regard to the quantum of compensation awarded. It is contended by the learned counsel for the appellant that the Tribunal ought not to have fixed the age of the deceased at 35 years and income of the deceased at Rs.5,000/-, in the absence of any documentary evidence to prove the same.

5. A perusal of the order passed by the Tribunal reveals that the Tribunal, based on the oral and documentary evidence, in the absence of any documentary evidence to substantiate the income of the deceased, has fixed the monthly income at Rs.5,000/-. Further, 50% towards the future prospective increase in income and deducting 1/3rd towards the personal expenses of the deceased, the contribution to the family has been fixed at Rs.5,000/- per month. The Tribunal, based on the ratio laid down in Sarala Verma's case adopted the multiplier of 16 and quantified the loss of dependency at Rs.9,60,000/-.

6. Though it is the contention of the learned counsel for the appellant that the loss of income to the family is on the higher side, however, it is submitted by the learned counsel for the respondents/claimants that the household services rendered by the deceased have not been quantified in terms of money. The said contention deserves acceptance. Though the award reveals that the monthly income fixed is slightly on the higher side, however the household services rendered by the deceased having not been quantified in terms of money, the fixation of income at Rs.5,000/- per month does not warrant interference and, accordingly, the same is confirmed.

7. Insofar as the compensation awarded under the heads loss of love and affection and cremation expenses are concerned, a perusal of the award reveals that the children of the deceased, who are minors, are aged 11 and 16 respectively. They have lost the love and affection of their mother at the very crucial age. No amount of money can offset the loss suffered by them. Therefore, the award of Rs.1,00,000/- to each claimant, totalling to Rs.3,00,000/- towards love and affection cannot be said to be excessive and, therefore, the same requires no interference. Similarly, the compensation awarded towards

cremation expenses is also reasonable and, therefore, the same is confirmed.

8. For the reasons stated above, there being no merits, this civil miscellaneous appeal is liable to be dismissed and, accordingly, the same is dismissed. No costs. Consequently, the connected Miscellaneous petition is closed.

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. The apportionment of the compensation amount between the claimants shall be as per the ratio of apportionment made by the Claims Tribunal. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the respective savings bank account of the major claimants through RTGS within a period of two weeks thereafter. The share of the minor claimants shall be kept in a fixed deposit initially for a period of three years, which shall be renewed periodically until the minors attain majority and the interest accrued there on shall be withdrawn by the guardian of the minor claimants once in three months directly from the bank.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
Additional Sub Judge, Tirupur.

copy to

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

C.M.A.No.2845 of 2017

sks(co)
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