IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.3545 of 2017
and C.M.P.No.22841 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Kancheepuram. ... Appellant

versus

1. Chakkarapani
2. Arivu
3. Haridoss
4. Parthipan
5. Narayanan ... Respondents

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 24.01.2014 made in M.A.C.T.O.P.No.13 of 2013 on the file of the Motor Accident Claims Tribunal, Additional District Court, Tindivanam.

For Appellant : Mr.A.Anthony Arockiaraja

JUDGMENT

The deceased, Annammal @ Mariammal, aged about 55 years, earning her livelihood by selling fish and earning a sum of Rs.15,000/- p.m. died in the accident that happened on 19.10.2011. Hence, the legal representatives, namely, husband and sons of the deceased filed a claim petition in M.A.C.T.O.P.No.13 of 2013 on the file of the Motor Accident Claims Tribunal (I Additional District Judge), Tindivanam, claiming compensation of Rs.15,00,000/-.

2. The Tribunal, on consideration of oral and documentary evidence, has awarded a sum of Rs.3,52,000/- as compensation, the break-up details of which are as follows:

Loss of dependency	-	Rs.3,24,000/-
Love and affection	-	Rs. 20,000/-
Funeral expenses	-	Rs. 5,000/-
Transport expenses	-	Rs. 3,000/-
Total	-	Rs.3,52,000/-

Challenging the quantum of compensation as excessive, the Transport Corporation has filed this appeal.

3. The main contention of the learned counsel appearing for the appellant is that the Tribunal committed a mistake in fixing the monthly income of the deceased at Rs.4,000/- p.m., which is on the higher side and the $1/5^{th}$ deduction made towards personal expenses of the deceased is also incorrect and the Tribunal ought to have made deduction of $1/4^{th}$.

4. A perusal of the award passed by the Tribunal reveals that the Tribunal has taken note of the fact that there are five members in the family and therefore, according to the reported decision in Sarla Verma vs. Delhi Transport Corporation and another (2009 6 SCC 121), when the number of persons in the family is 4 to 6, deduction of $1/5^{th}$ towards personal expenses is permissible. It is not as if the Tribunal has not adhered to the ratio laid down by the Apex Court. The Tribunal has strictly adhered to the ratio laid down and has given a reasoned decision and therefore, the finding relating to deduction towards personal expenses does not require any interference.

5. Further, it is to be pointed out that the last claimant is aged 23 years, it cannot be said that he is not a dependent upon the earnings of the deceased. Moreover when the job of the deceased is stated to be a fisherwoman, the likelihood of spending more money towards personal expenses is remote.

6. Insofar as the monthly income of the deceased is concerned, the job of the deceased is stated to be a fisherwoman. There is a finding that the deceased is a lady, and hence, she can only sell fish and she cannot go into the sea for fishing. This finding is arbitrary and it cannot be said that just because she is a woman, she could not go into the sea for fishing. The notional income of the deceased has been fixed without taking into account the future prospective increase in income and without taking into account the value of household services rendered by the deceased. The Tribunal ought to have fixed a higher amount as monthly income, which would make the compensation more. However, no appeal for enhancement having been filed, at this belated point of time, this Court is not

inclined to enhance the award. On an overall consideration of the issue, this Court is of the considered opinion that the compensation cannot be said to be excessive and, accordingly, the same is confirmed.

7. Insofar as the compensation awarded under the other heads are concerned, the amounts on those are very meagre and cannot be said to be excessive or unreasonable and the same is liable to be confirmed.

8. For the aforesaid reasons, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 24.01.2014 made in M.A.C.T.O.P.No.13 of 2013 on the file of the Motor Accident Claims Tribunal, Additional District Court, Tindivanam. Consequently, connected miscellaneous petition is closed.

9. The appellant/Transport Corporation is directed to deposit the compensation awarded by the Tribunal, less the amount, if any, already deposited, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, to the credit of claim petition, within a period of four weeks from the date of receipt of a copy of this Judgment. The claimants are entitled to compensation as per the ratio of apportionment made by the Tribunal. On such deposit being made, the Tribunal shall transfer the respective shares of the claimants directly to the bank account of claimant through RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ogy/GLN
To

1. The Motor Accident Claims Tribunal,
Additional District Court, Tindivanam.

2. The Section Officer,
VR Section, High Court, Madras.[2 copies]

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srg 26/06/2018