IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.07.2018
CORAM
THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY
C.M.A. No. 1519 of 2018
&
C.M.P.No. 12079 of 2018

The Manager,
Karnataka State Road Transport
Corporation,
Bengaluru. ..Appellant/2nd Respondent

Vs.

1. Tmt. Sarojini
2. Smt. Sudha
3. Mrs. Subha

Subbae Gounder (Died)

4. Tmt. Subbammal ...1 to 4 Respondents/ Petitioners 1 to 5
5. Mr.R. Ragavendra ...5th Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 20.09.2016 passed in M.C.O.P. No. 575 of 2012 by the Motor Accident Claims Tribunal (III Additional District and Sessions Judge), at Coimbatore.

For Appellant :: Mr.T. Thiyagarajan

For Respondents:: Mr.C. Veeraraghavan for R1 to R4

J U D G M E N T

(Judgment of the Court was delivered by N. KIRUBAKARAN,J.)

The Civil Miscellaneous Appeal has been preferred by the Transport Corporation as against the award of Rs.12,59,044/- granted as compensation for the death of one S. Ramraj, aged about 52 years, an agriculturist cum Coconut Merchant, allegedly earning about Rs. 20,000/- per month, in the accident, which occurred on 08.09.2010, when the tempo, in which the said Ramraj along with his relation and other co-passengers was travelling, was hit by the bus belonging to the appellant Transport Corporation, driven rashly and negligently.

2. Heard Mr.T. Thiyagarajan, learned counsel for the appellant and Mr.C. Veeraraghavan, learned counsel for the claimants/respondents 1 to 4.

3. The only question to be decided is with regard to the quantum of compensation.

4. Learned counsel for the appellant would submit that the Tribunal took Rs.10,000/- as the monthly income and added 15% towards "Future Prospects", which is contrary to the judgment of the Constitution Bench of the Honourable Apex Court rendered in National Insurance Company Limited V. Pranay Sethi and others reported in 2017 ACJ 2700. Further, he would point out that Rs.1 lakh awarded towards "Loss of Consoritum" and Rs.1 lakh towards "Loss of love and affection" are on the higher side. Therefore, he seeks to reduce the compensation amount.

5. However, the learned counsel for the claimants supports the award of the Tribunal.

6. Eventhough P.W.s 1 and 3 spoke about the income of the deceased to be Rs.20,000/- per month, as per Ex-P13, the Tribunal observing that the deceased was possessing land and that the land would always fetch income, even in his absence, determined the monthly income at Rs.10,000/-, which is sustainable. Though the Tribunal added 15% towards "Future Prospects" based on the judgment of the Honourable Apex Court in Smt.Sarla Verma and others V. Delhi Transport Corporation reported in 2009 6 SCC 121 and determined the total monthly income at Rs.11,500/-, in view of the recent pronouncement of the Constitution Bench of the Honourable Apex Court in Pranay Sethi's case, as per the age of the deceased, namely, 52 years, only 10% has to be added towards "Future Prospects". Accordingly, adding 10% towards "Future Prospects", the "total monthly income" comes to Rs.11,000/-(Rs.10,000/- (+) 10% (Rs.10,000/-).

7. The Tribunal rightly deducted one-third towards "Personal Expenses" of the deceased. If one-third deduction is made, then "the monthly contribution of the deceased to his family" would be,

Total Monthly Income ::Rs.11,000/-
Less:1/3rd towards "personal expenses"
::Rs.11,000/- (-) 1/3 (Rs.11,000/-)
::Rs.11,000/- (-) Rs.3667/-
Monthly Contribution ::Rs.7,333/-
Annual Contribution ::Rs.7,333 x 12

The Tribunal was also right in adopting multiplier 11, considering the age of the deceased, ie., 52 years, as per Ex-P6, Death certificate. Applying the same multiplier, "Loss of Income" comes to,

Loss of Income	::Rs.7,333 x 12 x 11
	::Rs.9,67,956/-

8. As far as the other conventional heads are concerned, Rs.1lakh awarded towards "Loss of Consortium" to the 1st respondent/wife and Rs.25,000/- awarded towards "Funeral Expenses" are reduced to Rs.40,000/- and Rs.15,000/- respectively, in consonance with the Constitution Bench's judgment of the Honourable Apex Court in Pranay Sethi's case. The sum of Rs.2000/- awarded towards "Loss of Estate" is enhanced to Rs.15,000/- while the sum of Rs.1lakh awarded towards "Loss of Love and Affection" to respondents 3 and 4 and Rs.20,000/- awarded towards "Transport Expenses" are confirmed. The total compensation payable to the claimants works out to,

Loss of Income	::	Rs.9,67,956/-
Loss of Consortium	::	Rs. 40,000/-
Loss of Love and Affection	::	Rs.1,00,000/-
Funeral Expenses	::	Rs. 15,000/-
Loss of Estate	::	Rs. 15,000/-
Transport Expenses	::	Rs. 20,000/-
Total	::	Rs.11,57,956/-
rounded off to	::	Rs.11,58,000/-

The rate of interest awarded by the Tribunal @9% per annum is reduced to 7.5% per annum.

9. Out of the total compensation amount, the 1st respondent/wife would be entitled to Rs.6 lakhs, the 2nd and 3rd respondents would be entitled to Rs.2 lakhs each and the mother of the deceased would be entitled to the balance amount of Rs.1,58,000/-.

10. The appellant Transport Corporation is directed to deposit the entire award amount, as per the modified award passed by this Court, with interest and costs, before the Tribunal, after deducting the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the respective shares of the claimants, as per the apportionment made by this Court, to their respective bank accounts, through RTGS, within a period of one week thereon.

11. In the result, the Civil Miscellaneous Appeal is partly allowed and the award of the Tribunal to the tune of Rs.12,59,044/- is reduced to Rs. 11,58,000/- with interest @ 7.5% per annum. No costs. Connected C.M.P. is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To
The III Additional District &
Sessions Judge, MACT,
Coimbatore.

+1cc to Mr.T.Thiyagarajan, Advocate SR.No.47923
+1cc to Mr.C.Veeraraghavan, Advocate SR.No.47855

VGI(CO)
sm:29.8.2018

C.M.A. No. 1519 of 2018