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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.2284 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Villupuram Ltd.,
Kancheepuram 631 502. Appellant/2nd Respondent

-vs-

1.B.Mani
2.M.Muniammal
3.M.Thananjeyan
4.M.Thanavanthan

... 1 to 4 Respondents/1 to 4 Petitioners

P.Amaravathy (died)
5.S.Muthusamy

....5th Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988 against the judgment and decree dated 11.02.2016 passed in M.C.O.P.No.6997 of 2013 on the file of the Motor Accidents Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : Mr.J.Lokesh

For Respondents: Ms.S.Vijaya
for M/s.Vijaya & Anandh (For R1 to R4)
Not ready in notice (For R5)

J U D G M E N T

[Judgment of the Court was delivered by R.SUBRAMANIAN,J.]

The Transport Corporation is the appellant. The challenge is to the award of a sum of Rs.19,45,000/- for the death of one Kumaran who was aged about 21 years, in a motor accident that took place of 30.10.2013.

2.According to claimants, while the said Kumaran was driving the Innova car bearing Reg.No.TN-03-C 8014 as a call taxi driver, a bus belonging to the respondent Corporation coming in opposite direction, driven in a rash and negligent manner, dashed against the car. As a result of the accident, the driver



3.The claim petition was resisted by the Transport Corporation contending that the accident occurred due to the rash and negligent driving of the Innova car driven by the deceased. On the quantum, the Corporation contended that the income has been exaggerated in order to enable the claimants to seek higher compensation. On the basis of the evidence available on record, including the First Information Report and the evidence of P.Ws.1 and 2 who are eye witnesses to the accident, the Tribunal found that the accident occurred due to the rash and negligent driving of the bus belonging to the Corporation. On the quantum, the Tribunal took the income of the deceased at Rs.10,000/- per month. Adding 50% towards future prospectus, after deducting 50% towards personal expenses, the monthly loss of dependency was arrived at Rs.7,500/-. The Tribunal adopted a multiplier of '18' and arrived at the pecuniary loss at Rs.16,20,000/-. The Tribunal awarded Rs.2,00,000/- towards loss of love and affection to the parents at Rs.1,00,000/- each. The Tribunal awarded a sum of Rs.1,00,000/- towards loss of estate and Rs.25,000/- towards funeral expenses. Totalling, the award worked out to Rs.19,45,000/-. Aggrieved, the Corporation is on an appeal.

5.Mr.J.Lokesh, learned counsel for the Transport Corporation would contend that the Tribunal should have added only 40% towards future prospects, in view of the judgment of the larger bench of the Hon'ble Supreme Court in the case of National Insurance Co. Ltd Vs. Pranay Sethi and others reported in 2018 (1) LW 331. He would also term the compensation awarded under the heads of loss of love and affection and loss of estate as excessive.

7. We have considered the rival submissions. Considering the nature of the job, we concur with the fixation of the monthly income by the Tribunal at Rs.10,000/-. The Tribunal has added 50% towards future prospectus which has to be reduced to 40%, in



view of the larger bench judgment of the Hon'ble Supreme Court referred to supra. Thus, the calculated pecuniary loss would be as follows:

$$\text{Rs.14,000/-} \times 50 \times 12 \times 18 = \text{Rs.15,12,000/-}$$

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Thus, the total pecuniary loss would be Rs.15,12,000/-.

8.As rightly pointed out by the learned counsel for the appellant Corporation, the amounts awarded on the heads of loss of love and affection and loss of estate is on the higher side. Hence, the amount awarded towards loss of love and affection is reduced to Rs.80,000/- and loss of estate is reduced to Rs.15,000/-, Rs.25,000/- awarded towards funeral expenses is retained and a sum of Rs.5,000/- is awarded towards transportation charges. Totalling, the compensation is worked out at Rs.16,37,000/- and the same is rounded off to Rs.16,40,000/-. The award amount will carry interest at the rate of 7.5% per annum.

9.The compensation is apportioned as follows: The father namely the 1st respondent will take 1/3 of the compensation and the mother, the 2nd respondent will take 2/3 of the compensation. The respondents 3 and 4 who are the brothers are not entitled to any compensation as they are not dependants. It is stated that the Transport Corporation has deposited a sum of Rs.11,18,778/- pursuant to the interim order passed by this Court. The Corporation is granted eight (8) weeks time to deposit the balance amount to the credit of the Tribunal. On such deposit, the claimants are permitted to withdraw the same as per the apportionment made above.

10.In fine, the appeal is partly allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gsa



To

The II nd Judge,
The Motor Accidents Claims Tribunal,
Small Causes Court, Chennai.

+1cc to M/s.Vijaya & Anandh, Advocate sr.no.61433

CMA No.2284 of 2016

ssd(co)
nr 03/12/2018