IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2018

CORAM:

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

CMA No.2530 of 2016
and
C.M.P.Nos.17890 of 2016 and 168 of 2018

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House, Anna Salai,
Chennai 600 002. .... Appellant/Respondent

-vs-

1.N.Kalaivani
2.T.Revathi .... Respondents/Petitioners

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988 against the judgment and decree dated 27.08.2014 passed in M.C.O.P.No.4774 of 2011 on the file of the VI Small Causes Court, Motor Accidents Claims Tribunal, Chennai.

For Appellant : Mr.S.S.Swaminathan

For Respondents: No appearance

J U D G M E N T

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

The Transport Corporation challenges the award of a sum of Rs.23,48,016/-, granted to the claimants for the death of the son of the 1st claimant and brother of the 2nd claimant, one N.Vinoth Kumar in a road accident that occurred on 10.06.2011.

2.Though grounds have been raised regarding negligence, Mr.S.S.Swaminathan, learned counsel appearing for the Transport Corporation fairly submits that he is not pressing the grounds regarding negligence. He would confine his arguments only on the quantum. As regards the quantum, the deceased was working as a helper in the Southern Railways, Chennai Division and he was drawing a monthly salary of Rs.13,568/-. The Tribunal has added 50% towards his future prospects, which is justified considering his age. The Tribunal has deducted 50% towards his personal expenses and has arrived at annual loss of dependency at Rs.1,22,112/-.

Applying the multiplier of '18', the Tribunal has worked out the total pecuniary loss at Rs.21,98,016/-. Mr.S.Swaminathan, however contended that the Tribunal has not made any deductions towards Income Tax.

3.He would submit that as on the date of the accident, the Income Tax slab was Rs.1,50,000/- and since future prospects have been included, the income of the deceased is over and above the Income Tax slab. Therefore, according to him, the Tribunal ought to have made a deduction towards Income Tax. We are unable to countenance the said submission, in view of the fact that the actual salary drawn by the deceased as on the date of the accident is less than the taxable income. The addition for future prospects cannot be made as the basis for deduction of any amount towards Income Tax.

4.It is next contended by Mr.S.Swaminathan that an amount of Rs.1,00,000/- awarded on the loss of love and affection is on the higher side, considering the judgment reported in 2018 (1) LW 331. The 1st claimant is the mother and the 2nd claimant is the sister of the deceased. Considering the relationship, we do not think that award of Rs.1,00,000/- for loss of love and affection can be said to be just. Following the larger bench judgment of the Hon'ble Supreme Court in the case of National Insurance Co. Ltd Vs. Pranay Sethi and others cited supra, the grant of Rs.1,00,000/- is reduced to Rs.35,000/-. The amount awarded towards funeral expenses and loss of estate is sustained.

5.In the result, the Civil Miscellaneous Appeal is partly allowed. The total compensation awarded by the Tribunal is reduced to Rs.22,83,016/- with interest at the rate of 7.5% p.a and proportionate cost. The apportionment of the compensation between the 1st and 2nd claimant made by the Tribunal is sustained. In view of the above reduced award amount, the appellant/Transport Corporation shall deposit the award amount less the amount already deposited if any, within a period of eight (8) weeks from the date of receipt of a copy of this order. On such deposit, the claimants should be permitted to withdraw the entire amount. There will be however no order as to costs in this appeal. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

gsa

To
1. The Motor Accidents Claims Tribunal,
VI Small Causes Court,
Chennai.

2. The Section Officer
VR Section,
High Court, Madras.

+1cc to M/s.S.S.Swaminathan, Advocate Sr.No.58662
+1cc to M/s.V.Balamurugan, Advocate Sr.No.59090

AK(CO)
sm:11.10.2018

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and
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