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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.02.2019

CORAM :

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CMA.No.17 of 2013
and
CMP.No.1 of 2013
Cross.Obj.No.98 of 2014

CMA.No.17 of 2013

The Managing Director,
Tamil Nadu Transport Corporation Ltd.,
Kanchipuram Division,
Kanchipuram.

...Appellant/Respondent

Vs

1. S.Shanthi
W/o.Sivakumar

2. G.Sivakumar
S/o.R.Govindasamy

...Respondents/Petitioners

Cross Objection No.98 of 2014

1. S.Shanthi
W/o.Sivakumar

2. G.Sivakumar
S/o.R.Govindasamy

...Cross objectors/Respondents

Vs

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

...Respondent/Appellant

COMMON PRAYER : Civil Miscellaneous Appeal & Cross Objection
filed against the judgment and decree dated 14.06.2012, made in
M.C.O.P.No.1112 of 2008 on the file of the Motor Accident Claims
Tribunal, Chief Small Causes Court, Chennai.



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For Appellant
in CMA/Transport Corporation : Mr.K.J.Siva Kumar

For Petitioners/claimants
Cross Objectors : Mr.V.Velu

C O M M O N J U D G M E N T

The appellant/Transport Corporation has preferred the present appeal in CMA.No.17 of 2013 and claimants have filed Cross Objection No.98 of 2014 against the judgment and decree, dated 14.06.2012, passed by the Motor Accident Claims Tribunal, (Chief Judge, Small Causes Court), Chennai in MCOP No.1112 of 2008.

2. On 05.09.2007 at about 16:30 hours at Madurantagam Kadaperi bus stand, when the deceased S.Anandan was attempting to board into the bus belonging to the Transport Corporation, plying from Madurabakkam to Sunambadu, all of a sudden, the driver of the bus started the bus in a rapid manner even after noticing that above said S.Anandan was trying to get into the bus. Due to the sudden jerk, S.Anandan fell down from the bus and sustained multiple grievous injuries all over the body and died on 08.09.2007.

3. The Tribunal on appreciation of both oral and documentary evidence came to the conclusion that the accident occurred only due to the rash and negligent driving of the driver of the Bus, belonging to the Transport Corporation and hence, directed the Transport Corporation to pay a sum of Rs.3,06,000/- with interest at the rate of 7.5% per annum from the date of claim till the date of realisation as compensation to the claimants, viz., the parents of the deceased.

4. Aggrieved over the quantum of award, the appellant/Transport Corporation has come forward with CMA.No.17 of 2013. Being not satisfied with the quantum of the award, the claimants filed Cross Obj.No.98 of 2014.

5. The learned counsel appearing for the cross objectors submitted that the compensation awarded by the Tribunal at a sum of Rs.3,06,000/- for the death of S.Anandan, who was a student, aged 15 years, is meagre. In support of his contention, he relied upon the decision rendered by the Hon'ble Supreme Court in the case of Kishan Gopal and another Vs Lala reported in 2013 (2) TN MAC 358 (SC) wherein, the notional income of the deceased, who was a student, aged 10 years, died in a road accident was fixed at Rs.30,000/- p.a. The relevant portion of the said decision is extracted herein below:-



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" In our considered view, the aforesaid legal principle laid down in Lata Wadhwa's case with all force is applicable to the facts and circumstances of the case in hand having regard to the fact that the deceased was 10 years old, who was assisting the Appellants in their Agricultural occupation which is an undisputed fact. We have also considered the fact that the rupee value has come down drastically from the year 1994, when the Notional Income of the non-earning member prior to the date of accident was fixed at Rs.15,000/-. Further the deceased boy, had he been alive would have certainly contributed substantially to the family of the appellants by working hard. In view of the aforesaid reasons, it would be just and reasonable for us to take his Notional Income at Rs.30,000/- and further taking the young age of the parents, namely the mother, who was about 36 years old, at the time of accident by applying the legal principles laid down in the case of Sarla Varma Vs. Delhi Transport Corporation the Multiplier of 15 can be applied to the multiplicand. Applying the ratio laid down by the Hon'ble Supreme Court this Court takes the Notional Income of the deceased at Rs.60,000/- p.a. The consideration of increase on account of future prospective increase in income would remain offset by deduction towards personal expenses of the deceased. Adopting the multiplier of 13 as per the age of the mother of the deceased the pecuniary loss is quantified at Rs.7,80,000/-"

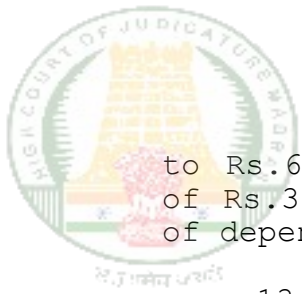
6. Therefore, the learned counsel submitted that, considering the present day in cost of living and the year of accident, i.e., 2007, the learned counsel submitted at least Rs.60,000/- p.a. may be fixed as annual income of the deceased and further contended that the Tribunal has not awarded any amount towards future prospects and has not applied multiplier method. The learned counsel further submitted that decisions in the cases of (i) Sarlavarma and others Vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121 and (ii) 2017(2) TNMAC 609 (SC) [National Insurance Co.Ltd., Vs. Pranay Sethi and others], have to be applied in the case on hand and sought for enhancement of compensation.

7. Per contra, the learned counsel appearing for the Transport Corporation contended that the amount fixed by the Tribunal as notional income is not meager. The Tribunal considering the relationship of the claimants, who are parents of the deceased has awarded just and proper compensation and prayed for dismissal of the appeal.



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12. Thus, if the monthly income of the deceased is taken as Rs.4,500/- and 40% amount is added towards future prospects, the total comes to Rs.6,300/-. If 50% amount is deducted towards personal expenses, then, the monthly loss of dependency comes to Rs.3,150/-. Consequently, the total loss of dependency works out



to Rs.6,80,400/- (37,800x12x18). Hence, the compensation amount of Rs.3,06,000/- awarded by the Tribunal under the head of loss of dependency is hereby modified and enhanced to Rs.6,80,400/-.

13. The Tribunal has not awarded any amount towards love and affection. Considering the fact that the claimants 1 and 2/parents have lost their only son in the accident at the young age, this Court feel that, a sum of Rs.30,000/- shall be awarded towards loss of love and affection (Rs.15,000/- each for 1st and 2nd petitioners). Further, it is seen that the Tribunal has not awarded any amount under the heads "Loss of estate" and "Funeral Expenses", and this Court is inclined to award Rs.15,000/- each under the said two heads as per the Constitution Bench's judgment in Pranay Sethi's case (cited supra).

14. Hence, the total compensation payable to the claimants are as hereunder.

Heads	Amount awarded by the Tribunal	Amount awarded by this Court
Loss of Income	Rs.3,06,000/-	Rs.6,80,400/-
Loss of love and affection		Rs.15,000/- to the first petitioner
Loss of estate		Rs.15,000/- to the second petitioner
Funeral expenses		Rs. 15,000/-
		Rs. 15,000/-
Total	Rs.3,06,000/-	Rs. 7,40,400/-

15. The total amount of compensation shall be shared by the claimants 1 & 2 herein, in the following manner:-

i) The mother of the deceased, who is the first petitioner/first claimant herein shall receive a sum of Rs.3,70,200/-

ii) The father of the deceased who is the second petitioner/second claimant shall receive a sum of Rs.3,70,200/-.

16. The Transport Corporation is directed to deposit the entire amount awarded by this Court along with interest and costs before the Tribunal within a period of six weeks from the date of receipt of a copy of this order, after deducting the amount already deposited, if any. On such deposit being made, the Tribunal shall transfer the amount to the claimants bank account through NEFT or RTGS within a period of one week thereon. The interest awarded by the Tribunal at the rate of 7.5% per annum is unaltered and the apportionment shall be as



ordered by this Court. The claimants are directed to pay the requisite court fee, if any, within a period of one week from the date of receipt of a copy of this order.

17. Accordingly, CMA.No.17 of 2013 filed by the Transport Corporation is dismissed. Cross.Obj.No.98 of 2014 filed by the claimants is allowed by enhancing the award of the Tribunal from Rs.3,06,000/- to Rs.7,40,400/- with interest and costs. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Chief Small Causes Court, Chennai.
Motor Accidents Claims Tribunal.

+1cc to Mr.V.Velu, Advocate, S.R.No.14380

CMA.No.17 of 2013
and CMP.No. 1 of 2013
Cross.Obj.No.98 of 2014

PVS (CO)
RGA(02/11/2021)