IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.11.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA
C.M.A.No.2710 of 2011

1.Gandhi
2.Amuthavalli
3.Ramadoss
4.Manonmani ... Appellants/ Claimants 2 to 4&6

vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
Chennai - 2.

3.Vennila

4.Selvi
(R3 &R4-Exparte) ...Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 05.10.2010 in M.C.O.P.No.232 of 2000 on the file of the Motor Accident Claims Tribunal / Sub Court, Mathurandagam.

Appellants	:	Mr.R.Muralidharan
R1	:	Mr.S.Sairaman
R2	:	Mr.K.J.Sivakumar
R3 & R4	:	Exparte

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.232 of 2000 on the file of the Motor Accident Claims Tribunal / Sub Court, Mathurandagam. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.5,00,000/- for the death of one Kannayiram, father of the claimants 1 to 3 and son of the fourth claimant in a road accident on 07.02.1994.

2. This is a case of head on collision between two buses bearing Registration Nos. TN 32 N 0037 and TN 01 N 0305 on GST

road, Acharapakkam, both belonging to TNSTC and the deceased Kannayiram who was travelling in the bus bearing Registration No. TN 32 N 0037 died on the spot.

3. The learned Subordinate Judge / Motor Accident Claims Tribunal, Mathurandagam after analysing the evidence on record, awarded a compensation of Rs.1,73,000/- together with interest at the rate of 7.5% per annum to the claimants. Not being satisfied with the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Heard Mr.R.Muralidharan, learned counsel appearing for the appellants, Mr.S.Sairaman, learned counsel appearing for the first respondent and Mr.K.J.Sivakumar, learned counsel appearing for the second respondent. No appearance on behalf of the third and fourth respondents.

5. In the claim petition, it is contended that the deceased was working as a Village Assistant, earning a sum of Rs.922/- per month. The salary slip (Ex.P4) shows that the claimant was earning a sum of Rs.900/- per month. The Tribunal did not also award any amount towards "future prospects" of the deceased, especially, when the deceased was aged 45 years on the date of the accident. As per the decision of the Supreme Court of India in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601, 30% should be added towards future prospects of the deceased. Since there are four dependents, 1/3rd of the deceased's income should be deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 14 as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

Calculation

Notional Income = Rs.900/-
30% Future Prospects = Rs.270/-
Total = Rs.900/- + Rs.270/- = Rs.1,170/-
After 1/3 deduction = Rs.780/-

Loss of dependency
= Rs.780/- x 12 x 14
= Rs.1,31,040/-

6. Apart from the above said amount, the appellants / claimants are entitled to a sum of Rs.15,000/-, Rs.40,000/- and Rs.15,000/- towards "loss of estate", "loss of love and affection" and "funeral expenses" respectively, as per the decision rendered in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601 (SC). The award passed by this Court under various heads is extracted hereunder:

S.No.	Head	Amount granted by this court
1.	Loss of dependency	Rs.1,31,040/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.2,01,040/-

7. Thus, the compensation awarded by the Tribunal is enhanced from Rs.1,73,000/- to Rs.2,01,040/- which would carry interest at the rate of 7.5% per annum.

8. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.1,73,000/- to Rs.2,01,040/-.

(iii) The appellants / claimants are directed to pay court fee for the enhanced compensation amount, if any, within a period of three weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

(iv) The first respondent and second respondent are directed to deposit the enhanced compensation amount i.e., Rs.2,01,040/-, equally (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.232 of 2000 on the file of the Motor Accident Claims Tribunal / Sub Court, Mathurandagam within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact. However, it is made clear that the appellants are not entitled for interest for the delay period on the amount enhanced by this Court.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mtl
To
The Motor Accidents Claims Tribunal,
The Subordinate Judge, Mathurandagam.

+1cc to Mr.R.Muralidharan , Advocate SR.No. 92198

C.M.A.No.2710 of 2011

vd co A.SK(15/07/2020)