IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2019

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No. 2996 of 2019

1.P.Jeeva
2.P.Jayashree
3.P.Yogesh
4.Ramakrishnan ... Appellants/Petitioners

Vs.

1.N.Nehru

2.The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
No.12, Ramakrishna Road,
Salem - 636 007. ... Respondents/Respondents

Appeal filed under Section 173 of Motor Vehicles Act,1988 against the judgment and decree made in MCOP No.1342 of 2016 dated 23.11.2018 on the file of the Motor Accidents Claims Tribunal,II Additional District Judge, Salem.

For Appellant : Mr.SP.Yuvaraj

For Respondents : Mr.D.Venkatachalam for R2
R1 Exparte before the Tribunal

JUDGMENT
(Delivered by M.M.SUNDRESH.,J)

The appellants are the claimants being the wife, daughter, son and father of the deceased. The deceased was working as Deputy Manager in the State Bank of India. He met with an accident on 03.05.2016, while proceeding in his motorcycle bearing Regn. No.TN 27 Q 6657, the bus bearing Regn. No.TN 29 N 2389 belonging to the second respondent came in the opposite direction and dashed against the motorcycle driven by the deceased and caused his death. Seeking compensation for a sum of Rs.2,99,03,960.00, by restricting to a sum of Rs.2 crores, the appellants filed M.C.O.P. No.1342 of 2016.

2.The Tribunal, while fixing the liability on the second respondent, awarded a sum of Rs.38,70,960/- as compensation. Seeking enhancement, the appellants have come before this Court.

3.Learned counsel appearing for the appellants submitted that the split multiplier ought not to have been adopted by the Tribunal. Even assuming the same can be adopted, future income should have been taken at 15%. The age of retirement of the deceased also was wrongly taken. The deceased was not working under the State employment but in the State Bank of India, where the retirement age is 60 years. Therefore, the appeal will have to be allowed.

4.Learned counsel appearing for the second respondent submitted that there is nothing wrong in the methodology adopted by the Tribunal. In the given case, the Tribunal can certainly adopt methodology of split multiplier. Thus, the appeal will have to be dismissed.

5.In support of his contention, learned counsel appearing for the appellants relied on the judgements in (i) Puttamma and Others Vs. K.L.Narayana Reddy and Another ((2013) 15 SCC 45) (ii)Govindammal and Others Vs.Velayudham and Others (C.M.A.No.2347 of 2015 dated 13.04.2017) whereas the learned counsel appearing for the second respondent relied upon the decision in The New India Assurance Co. Ltd., Vs. Munian and Others (CDJ 2010 MHC 3268).

6.Insofar as the issue qua split multiplier is concerned, it can never be stated that the Tribunal is prevented from adopting the same in all cases. In the given case, it is well open to the Tribunal to adopt the doctrine of split multiplier which has been done in this case. Admittedly, the deceased was 56 years old and working as Deputy Manager in the State Bank of India. Therefore, the Tribunal split the multiplier into two. One is the period during which he would have worked and the remaining period had he lived after his retirement. However, there are two mistakes committed by the Tribunal. One is with respect to the percentage of future income on the death. It has adopted 10% as against 15%, as fixed by the Apex Court and in a similar case, the consequential multiplier has been adopted for 11 years instead of 9 years.

7.Taking the abovesaid two mistakes into consideration, we are inclined to fix the compensation for the loss of income at Rs.34,34,735/- for a period of first four years. For the remaining five years, the loss of income is fixed at Rs.12,16,467/-. After adding other heads i.e. Rs.40,000/- towards loss of consortium, Rs.80,000/- towards loss of love and affection, Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate, which are not in dispute, the total compensation payable is arrived at Rs.48,01,202/- and we round it off to Rs.48,02,000/- along with same interest and proportionality as fixed by the Tribunal. Inasmuch as the income tax has not been deducted even by the Tribunal, we are inclined to deduct a lumpsum amount of Rs.5 lakhs from Rs.48,02,000/- and thus the total compensation payable is Rs.43,02,000/-. Accordingly, the Civil Miscellaneous Appeal is allowed. No costs.

8.The second respondent Transport Corporation is directed to deposit the enhanced compensation amount awarded by this Court along with interest at the rate of 7.5% per annum, less the amount if any already deposited, to the credit of MCOP No.1342 of 2016 on the file of the Motor Accidents Claims Tribunal (II Additional District Judge), Salem, within a period of eight weeks from the date of receipt of a copy of the judgment.

9.We also direct the Tribunal to transfer the entire amount by way of RTGS to the bank accounts of the claimants within a period of three weeks from the date of deposit of the award amount. On such transfer, the claimants are entitled to withdraw the same.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
1.The II Additional District Judge
Motor Accidents Claims Tribunal,Salem.

Copy to
The Section officer
VR Section, High Court, Madras 104.

+1 Cc to Mr.SP.Yuvaraj, Advocate sr 102605
+1 Cc to Mr.D.Venkatachalam, Advocate sr 102593.

C.M.A.No. 2996 of 2019

NRL(CO)
SP(23/07/2020)