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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 25.11.2019
CORAM:
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY
CMA(MD)No.807 of 2010

1. A.Ayyadurai
2. I.Sivakumar
3. I.Pavithra
4. I.Sopana … Appellants

versus

Tamil Nadu State Express
Transport Corporation,
Chennai
Through its General Manager,
Pallavanchalai,
Chennai. … Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 17.12.2009 made in M.C.O.P.No.90 of 2008 on the file of the Motor Accident Claims Tribunal (2nd Additional District Judge), Tirunelveli.

For Appellants : Mr.T.Selvakumaran
For Respondent : Mr.P.Prabhakaran

JUDGMENT

One Panchavarnam, aged about 49 years, a Tailor, earning a sum of Rs.8,000/- p.m. died in an accident that had occurred on 05.12.2007. Hence, the legal representatives of the deceased filed a petition in M.C.O.P.No.90 of 2008 on the file of the Motor Accident Claims Tribunal (2nd Additional District Judge), Tirunelveli, claiming compensation of Rs.10,00,000/-. The Tribunal, after considering the oral and documentary evidence, has awarded a sum of Rs.1,67,5000/-, the break up details of which are as follows:

Loss of dependency	-	Rs.1,30,000/-
Funeral expenses	-	Rs. 5,000/-
Loss of love and affection to claimants 1 and 2	-	Rs. 30,000/-
Loss of estate	-	Rs. 2,500/-
Total	-	Rs.1,67,500/-

Challenging the quantum of compensation as inadequate, the claimants have filed the present appeal for enhancement of compensation.

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2. The learned counsel appearing for the appellants contended that though the claimants claimed that the deceased, by doing tailoring work, earned a sum of Rs.8,000/- p.m., the Tribunal has taken the notional income of the deceased at Rs.15,000/- p.a., which is very low. However, the learned counsel fairly submitted that there was no proof for the income earned by the deceased. The learned counsel further submitted that the Hon'ble Apex Court in ***Syed Sadiq's*** case (reported in ***2014 (2) SCC 735***), fixed the notional income of the vegetable vendor at Rs.6,500/- for the accident occurred in the year 2008. In the present case, the accident had occurred in the 2007. Therefore, the income of the deceased may be fixed at Rs.4,500/-.

3. At this juncture, the learned counsel appearing for the respondent fairly submitted that it is true that the income of the deceased fixed by the Tribunal at Rs.15,000/- p.a. is on lower side. But, the learned counsel for the respondent contended that Rs.3,000/- p.m. may be considered as notional income of the deceased, for which, the learned counsel appearing for the claimants/appellants fairly agreed.

4. In view of the submission made by the learned counsel for the appellant and the respondent Transport Corporation, this Court is inclined to fix the notional income of the deceased at Rs.3,000/- p.m.

5. Further, the learned counsel appearing for the claimants submitted that in the present case, there are four claimants. As per the dictum laid down by the Hon'ble Apex Court in ***Sarla Verma and others vs. Delhi Transport Corporation and another***, the deduction towards personal expenses of the deceased should be at 1/4th amount. But, in the present case, the Tribunal has deducted 1/3rd amount towards personal expenses of the deceased. The learned counsel further submitted that the Tribunal failed to add future prospects while determining compensation. As held by the Hon'ble Apex Court in ***National Insurance Company Limited vs. Pranay Sethi and others*** reported in ***AIR 2017 SC 5157***, 25% should be added towards future prospects by considering the age of the deceased as 50.

6. Considering the numbers of family members of the deceased and also considering the age of the deceased, this Court is inclined to add 25% towards future prospects and to deduct 1/4th towards personal expenses of the deceased and also to adopt the correct multiplier of 13 while determing the compensation. Accordingly, the loss of dependency would be Rs.4,38,750/- (Rs.3,000 + 25% x 12 x 13 x ¾).

7. The learned counsel appearing for the appellants fairly submitted that the amount awarded in respect of other heads are just and fair and therefore, the same may be confirmed.

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8. Though the Constitution Bench of the Hon'ble Apex Court provides more amount for funeral expenses, loss of love and affection and loss of estate, the learned counsel for the claimants/appellants fairly submitted that the amount awarded in other heads are just and fair. Therefore, the same are hereby confirmed. The compensation awarded by the Trial Court is modified as follows:

Loss of income	-	Rs.4,38,750/-
Funeral Expenses	-	Rs. 5,000/-
Loss of love and affection	-	Rs. 30,000/-
Loss of estate	-	Rs. 2,500/-
Total	-	Rs.4,76,250/-

9. In the result, the Civil Miscellaneous Appeal is allowed, enhancing the award amount from Rs.1,67,500/- to Rs.4,76,250/-, which is payable by the respondent/Transport Corporation along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

10. Hence, the respondent Transport Corporation is directed to deposit the entire award amount, less the amount already deposited, if any, along with interest at the rate of 7.5% from the date of petition till the date of deposit within a period of eight weeks from the date of receipt of a copy of this Judgment. The first claimant is entitled to a sum of Rs.2,76,250/-, 2nd claimant is entitled to Rs.50,000/-, 3rd claimant is entitled to Rs.75,000/- and 4th claimant is entitled to Rs.75,000/-. On such deposit being made, the Tribunal shall transfer their respective share amounts directly to the claimant's Bank Account, through RTGS, within a period of three weeks thereafter. The claimants shall pay the Court Fee, if any, for the enhanced compensation, before obtaining a copy of Judgment. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

The Motor Accident Claims Tribunal
(2nd Additional District Judge),
Tirunelveli.

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Copy to:

The Section Officer,VR Section,
Madurai Bench of Madras High Court,
Madurai (2 copies)

+1 CC to Mr.P.PRABHAKARAN, Advocate (SR-100928[F] dated 25/11/2019)
+1 CC to Mr.T. SELVAKUMARAN, Advocate (SR-101682[F] dated 27/11/2019)

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MK (02.03.2020) 4P 6C

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