

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated:05.10.2020
CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN
C.M.A.No.2083 of 2015

1.Mrs.Saroja
2.Mr.Suresh
3.Mr.Ramesh
4.Mr.Raju Gandhi
5.Mr.Chinnamani
6.Ms.Shanthi
7.Mrs.Panjali .. Appellants/ Petitioners

/versus/

State Express Transport Corporation Ltd.,
Rep.by its Managing Director,
No.2, Pallavan Salai,
Chennai-2. .. Respondent/ Respondent

Prayer: Civil Miscellaneous Appeal has been filed under Section 173 of M.V.Act, 1988, against the judgment and decree dated 08.10.2012 and made in M.A.C.T.O.P.No.4901/2009 on the file of the Motor Accident Claims Tribunal, IV Judge, Small Causes Court, Chennai.

For Appellants :Mrs.M.Malar

For Respondent :Mr.K.Kathiresan

J U D G M E N T

(The case has been heard through video conference)

The claimants, who are the appellants herein filed a claim petition before the Motor Accident Claims Tribunal seeking compensation for the death of Munusamy aged 45 years in the road accident occurred on 20.11.2008.

2.The Tribunal, after considering the materials placed before it, has fixed the income of the deceased at Rs.4,500/- per month notionally. Adding 30% towards loss of future prospects and applying multiplier '13', had awarded a sum of Rs.7,30,000/- towards loss of income. Rs.20,000/- was awarded towards loss of consortium; Rs.10,000/- was awarded towards funeral expenses; Rs.10,000/- each of the claimants totally a sum of Rs.70,000/- was awarded for loss of love and affection, all together, the award of Rs.8,30,000/- was ordered as compensation by the tribunal. Not satisfied with the award amount, this appeal is filed for enhancement of compensation.

3.The learned counsel appearing for the appellants contended that in Syed Sadiq v. United India Insurance Company Ltd., reported in 2014(2) SCC 735, the Hon'ble Supreme Court has fixed Rs.6,500/- as monthly income for an unorganised sector person and the same yardstick has to be adopted in this case. She contended that, notionally monthly income has to be fixed at Rs.6500/-. Adding 25% for future prospects, the multiplier '14' should be applied. The loss of income should be increased and proportionate loss of consortium and funeral expenses should also be added as per the judgment of the Hon'ble Supreme Court in National Insurance Company v. Pranay Sethi and others reported in (2017(2) TNMAC 609(SC)).

4.The learned counsel appearing for the respondent/transport corporation would submit that the claimants have not produced any material to show that the deceased had any income or employment for earning income of Rs.9,000/- per month as agriculturist and mechanic. Though the claimants have stated that the deceased was an agriculturist and a mechanic, no material was placed to show that the deceased had any agriculture land or working in mechanic shop. Hence, the Tribunal has rightly fixed the notional income of the deceased as Rs.4,500/-. Further, the learned counsel for the respondent submitted that the Tribunal has erroneously added 30% for future prospects relying upon Sarala Verma case, but subsequently the Constitutional Bench has held that in case of daily wages and temporary employee the percentage to be added towards future prospects is only 25%. In this case the deceased has not placed any document to show that he is making his livelihood through that employment and therefore, only 25% has to be added towards future prospects. Regarding the rate of interest, he contended that the Tribunal has unreasonably fixed the interest at the rate of 9.5% p.a. without any basis. The rate of interest should be reduced either 6% or 7.5%.

5.After considering the rival submissions made by the parties, this Court finds that based on the death certificate and post-mortem certificate, which are marked as Exs.P2 and P3, the Tribunal has fixed age of the deceased as 45 years. Since there is no material placed before the Tribunal to show that the deceased had income or source of income, his income has to be tentatively fixed at Rs.4,500/- per month and had applied the multiplier '13' after adding 30% towards future prospects and deducted 1/5th for his personal expenditure.

6.As far as the compensation awarded under the head of loss of income, this Court finds that the fixation of monthly income as Rs.4,500/- is fair and reasonable, when there is no material to show that the deceased had any income or source of income. After the judgment of Pranay Sethi case, the Honble Supreme

Court has standardised the multiplier formula and in case of daily wages, future prospects for a person age between 41 to 50 shall be 25%. Accordingly, additional amount towards future prospects has to be reduced from 30% to 25%. At the same time, the multiplier for a person up to the age of 45 is '14'. Whereas, the Tribunal has fixed the multiplier as '13'. This Court also finds that under the heads of loss of consortium (Rs.20,000/-) and love and affection (Rs.70,000/-each), totally a sum of Rs.90,000/- have been awarded. If the principle laid down in Pranay Sethi case is applied, there will be a slight enhancement under these heads and Rs.15,000/- for funeral expenses instead of Rs.10,000/-. At the same time, this Court finds that the interest has been fixed at the higher rate of 9.5% instead of 7.5%. Therefore, the interest rate will be reduced to 7.5%.

7. On taking note of these factors, the total amount of compensation as awarded by the Tribunal if interfered, the claimant will be getting lesser than what the Tribunal has awarded. Since no appeal filed by the vehicle owner/corporation, in the claimant appeal, this Court does not want to reduce the award, detrimental to the appellants.

8. Hence, this civil miscellaneous appeal is dismissed. No order as to costs. The award passed by the Tribunal shall be deposited with accrued interest within a period of 12 weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the proportionate sum as per the Tribunal award, on filing appropriate application.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To:

The Motor Accidents Claims Tribunal,
IV Judge, Small Causes Court,
Chennai.

Copy to:

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

+1cc to Mr.K.Kathiresan, Advocate SR.No. 32627

+1cc to M/s.M.Malar, Advocate SR.No. 32623

C.M.A.No.2083 of 2015

A.SK(30.04.2021)