

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2020

CORAM

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

C.M.A.Nos.3659 of 2014 and 2076 of 2018
C.M.P.Nos.22115 and 22117 of 2019

C.M.A.No.3659 of 2014

M/s. Tamil Nadu State Transport
Corporation (VPM) Limited,
rep.by its Managing Director/Branch Manager
2/27, Salamedu, Vazhuthareddy,
Villupuram, Tamil Nadu.

.. Appellant/2nd Respondent

vs

1. Pauline Mary
2. Pushpalatha (Minor)
3.Saccoubaye

.... Respondents 1 to 3/Petitioners

4.R.Pitchaiyandi

.... 4th Respondents/1st Respondent

(minor R2 rep. by her mother
and natural guardian R1)

C.M.A.No.2076 of 2018

1. Pauline Mary
2. Pushpalatha
3.Saccoubaye

.. Appellants/Petitioners

(Causes title accepted as per order of
Court dated 30.03.2016 in MP.No. 1/2015
in CMA.SR. 94895/2014)

vs.

1.R.Pitchaiyandi

2.M/s. Tamil Nadu State Transport
Corporation (VPM) Limited,
rep.by its Managing Director/Branch Manager
2/27, Salamedu, Vazhuthareddy,
Villupuram, Tamil Nadu.

.. Respondents/Respondents

Appeals filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 16.07.2014 made in M.C.O.P.No.827 of 2012 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Puducherry.

For Appellants in : Mr.S. Mahimai Raj
CMA.No.2076/2018 &
Respondent 1 to 3 in
CMA No.3659/2014

For 2nd Respondent in : Mr.K.J. Sivakumar
CMA.No.2076/2018
and Appellant in
CMA No.3659/2014

COMMON JUDGMENT

[Judgment of the Court was delivered by M.M. SUNDRESH, J.]

As C.M.A.No.3659 of 2014 has been filed challenging the quantum, C.M.A.No.2076 of 2016 has been filed seeking enhancement. Thus, both the appeals have been taken up and decided by a common order since they emanated from the Common Award of the Tribunal. For the sake of brevity, the Appellants in 2076 of 2018 are taken as such and the Appellant in 3659 of 2014 is arrayed as Respondent.

2. The Appellants being the claimants filed M.C.O.P.No.827 of 2012 seeking a claim of Rs.1,20,00,000/- for the death of the deceased by name Elumalai. The deceased was aged about 44 years at the time of accident. He was a trained graduate teacher, earning a monthly income of Rs.34,906/-

3. The Appellant while examining two witnesses, marked Exs.P.1 to P.15, Ex.P.15 is the photocopy of the medical bills issued by the MIOT Hospitals, Chennai, through P.W.1, who is the first Appellant before us.

4. Upon consideration of the oral and documentary evidence, the Tribunal awarded a total compensation of Rs.48,44,348/- as under:

Loss of Dependency	..	Rs.37,05,268/-
Future Prospectus 30% on		
loss of dependency	..	Rs.11,11,580/-
Loss of consortium(1st Petr.)	..	Rs. 10,000/-
Loss of Estate	..	Rs. 10,000/-
Funeral expenses	..	Rs. 7,500/-
		= = = = = =

Total .. Rs.48,44,348/-
= = = = =

5. Learned counsel for the Appellants submitted that Ex.P.15 has been wrongly eschewed by the Tribunal, in fact, original hospital bill has already been filed. It is also available in the records. By mistake the Tribunal considered the xerox copy of the bills and rejected the medical bills. For the Loss of Estate and Loss of Consortium very limited amount has been granted. So also for the funeral expenses. For Loss of Love and Affection and transport charges, no amount has been granted.

6. The learned counsel for the Respondent who being the Appellant in CMA No.3659 of 2014 submitted that there is a calculation error committed by the Tribunal. Accordingly a sum of Rs.50,82,314/- can be arrived at, of which 10% of deduction will have to be made towards Income Tax deduction. Thus, the appeal will have to be allowed.

7. We do not find any error in the order passed by the Tribunal in fixing the compensation under the Head Loss of Dependency. We find that the fixation under the head of Loss of Dependency adopted by the Tribunal and as sought to be canvassed before us by the learned counsel appearing for the respondent are not correct. While there is no difficulty with respect to 10% deduction towards income tax payable, the same has to be done only after giving credit to the Standard Deduction. If that is taken into consideration the amount payable for Loss of Dependency comes to Rs.47,51,441/- .

8. For Loss of Consortium, a sum of Rs.40,000/- is to be awarded and so also for the Loss of Love and Affection, a sum of Rs.80,000/- will have to be awarded as two claimants are entitled to get said amount. For the Loss of Estate, we are granting Rs.15,000/- and so also for funeral expenses. For Transportation, we are granting Rs.15,000/-. Since original Medical Bills are available, we are granting Rs.4,57,766/- under the head Medical Expenses. Thus, in total amount of Rs.53,74,207/- is arrived at. This amount is rounded off to Rs.53,75,000/-, which is classified as follows:

Loss of Dependency	..	Rs. 47,51,441/-
Loss of consortium		
(for 1st claimant.)	..	Rs. 40,000/-
Loss of Love and Affection		
(for 2nd & 3rd claimants)	..	Rs. 80,000/-
Medical Expenses	..	Rs. 4,57,766/-
Loss of Estate	..	Rs. 15,000/-
Transportation charges	..	Rs. 15,000/-
Funeral expenses	..	Rs. 15,000/-
		= = = = =

Total .. Rs. 53,74,207/-
Rounded off to .. Rs. 53,75,000/-
= = = = =

9. The Appeal filed by the Appellants in CMA.2076 of 2018 is allowed and the appeal in CMA No.3659 of 2014 filed by the Second Respondent is dismissed. No costs. Connected Miscellaneous Petitions are closed.

10. The second respondent/Transport Corporation is directed to deposit the compensation amount awarded by this Court along with proportionate interest, less the amount if any already deposited, to the credit of M.C.O.P.No.827 of 2012 on the file of the Motor Accidents Claims Tribunal (Principal District Court) Puducherry, within a period of eight weeks from the date of receipt of a copy of the judgment.

11. We also direct the Tribunal to transfer the respective shares of claimants 1 to 3 by way of RTGS to the bank accounts of claimants within a period of three weeks from the date of deposit of the award amount. On such transfer, the said claimants are entitled to withdraw the same.

Sd/-

Assistant Registrar (CS-III MDU)

//True Copy//

Sub Assistant Registrar

Ggs

To

1.The Principal District (Court) Judge,
Motor Accidents Claims Tribunal,
Puducherry.

Copy To

The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No. 11208
+2cc to Mr.S.Mahimairaj, Advocate, S.R.No. 11036 & 11037

C.M.A.Nos.3659 of 2014 and 2076 of 2018

LN(CO)
GN(02/11/2020)