IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3664 of 2014 &
M.P.No.1 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Villupuram Division I,
Kancheepuram. ... Appellant/Respondent

vs.

1.Tmt.Vasantha
2.M.Devan
3.P.M.Poongavanam
4.G.Padma … Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the decree and judgment dated 04.07.2014 made in M.C.O.P.No.2209 of 2010 on the file of the Motor Accidents Claims Tribunal, V Small Causes Judge, Chennai.

For Appellant : Mr.D.Venkatachalam for Mr.C.S.K.Sathish

For Respondents : Mr.K.Varadhakamaraj

JUDGMENT

(This case was heard through Video Conferencing)

This appeal has been filed by the Transport Corporation challenging the Award dated 04.07.2014, passed by the Motor Accident Claims Tribunal (V Small Causes Court, Chennai), in M.C.O.P.No.2209 of 2010.

2. The Appellant / Transport Corporation has challenged the Award only on the ground that the quantum of compensation awarded by the Tribunal to the respondents is excessive. The Tribunal under the impugned Award has directed the Appellant / Transport Corporation to pay the respondents a compensation of Rs. 11,73,000/- together with interest and cost as detailed hereunder:

1.Actual loss of dependency	Rs.9,97,800/-
2.Funeral Expenses	Rs. 25,000/-
3.Loss of Consortium	Rs.1,00,000/-
4. Loss of Love and Affection	Rs. 50,000/-
Total	Rs.11,72,800/- Rounded off to Rs.11,73,000/-.

3. It is the contention of the Appellant that the assessment of the monthly income of the deceased at Rs.8,000/- by the Tribunal is on the higher side and it has to be reduced. It is also their contention that even in the Claim Petition, the respondents had pleaded that the deceased was earning only Rs.6,500/- per month but the Tribunal without any basis has assessed the monthly income at Rs.8,000/-. It is also the contention of the Appellant that the loss of future prospects granted by the Tribunal at 30% is on the higher side and it has to be reduced.

4. Before the Tribunal, the respondents, who are the legal representatives of the deceased and the claimants in M.C.O.P.No.2209 of 2010, have filed eight documents which were marked as Exs.P1 to P8 and four witnesses were examined on their side namely PW1 - the wife of the deceased, PW2 - an eye-witness to the accident, PW3 - the employer of the deceased and PW4 - a Sub-Inspector of Police. On the side of the Appellant / Transport Corporation, no document has filed but one witness was examined namely RW1.

5. To substantiate their claim that the deceased was earning Rs.8,000/- per month at the time of accident, the respondents/claimants have filed the salary statement of the deceased, Ex.P7 and the salary slip of the deceased, Ex.P8 before the Tribunal. As seen from Exs.P7 and P8, the deceased was earning Rs.8,000/- per month at the time of the accident. The Appellant / Transport Corporation has not questioned the genuineness of Ex.P8 before the Tribunal.

6. The Tribunal has observed that Ex.P8 has not been disputed by the Appellant / Transport Corporation. The employer of the deceased Mr.Rajaraman (PW3) has also been examined as a witness before the Tribunal, who has also deposed that the deceased was earning Rs.8,000/- per month at the time of the accident. No contra evidence has been produced by the Appellant / Transport Corporation before the Tribunal to disprove Exs.P7 & P8 and the deposition of PW3. The Tribunal after giving due consideration to the evidence placed on record has rightly assessed the monthly income of the deceased at the

time of accident at Rs.8,000/- which is a correct assessment in the considered view of this Court. Being a benevolent legislation, contradiction pleadings cannot be a ground for rejection of the assessment made by the Tribunal, when there is clinching evidence available to substantiate the contrary. Therefore, the Tribunal has rightly assessed the monthly income of the deceased at Rs.8,000/- in accordance with the evidence available on record. Even though the claimants in their claim petition had pleaded that the deceased was earning Rs.6,500/- per month.

7. The Tribunal has erroneously added 30% towards loss of future prospects to the respondents which is not in accordance with settled law as laid down by the Hon'ble Supreme Court in the case of National Insurance Company Limited vs. Pranay Sethi and others reported in (2017) 16 SCC 680. The deceased was aged 48 years at the time of the accident which has not been disputed by the Appellant / Transport Corporation. For a person aged 48 years, the loss of future prospects as per Pranay Sethi's Judgment referred to is 25% and not 30% as granted by the Tribunal. Accordingly, the same is modified by this Court and the loss of future prospects is reduced to 25% instead of 30% granted by the Tribunal.

8. Since the age of the deceased was 48 years at the time of the accident, the Tribunal has rightly adopted 13 multiplier. The number of dependents of the deceased are four in number and the Tribunal has rightly deducted 1/4th towards personal expenses of the deceased. The Tribunal has also rightly deducted 10% towards income tax. Accordingly, the loss of dependency assessed by this Court at Rs.10,53,000/- instead of Rs.12,16,800/- erroneously assessed by the Tribunal.

9. The Tribunal has erroneously awarded a sum of Rs.25,000/- towards funeral expenses of the deceased, Rs.1,00,000/- towards loss of consortium and Rs.50,000/- towards loss of love and affection as compensation to the claimants which is a higher sum and not in accordance with the decision of the Hon'ble Supreme Court in Pranay Sethi's Judgment referred to supra. Accordingly, this Court reduces the compensation to Rs.15,000/- towards funeral expenses, Rs.40,000/- towards loss of consortium and Rs.30,000/- towards loss of love and affection.

10. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned award is reduced to Rs.11,72,800/- from 12,28,000/- as detailed hereunder:

1.Actual loss of dependency	Rs.10,53,000/- (8000 + 25% = 10000 x 12 = 120000 -10% = 108000 x 13 -1/4)
2.Funeral Expenses	Rs. 15,000/-
3.Loss of Consortium	Rs. 40,000/-
4. Loss of Love and Affection	Rs. 30,000/-
Total	Rs.11,38,000/-

11. In the result, the appeal is partly-allowed by reducing the compensation from Rs.11,72,800/- to Rs.11,38,000/-. However, the rate of interest fixed by the Tribunal at 7.5% is confirmed. The Appellant Transport Corporation is directed to deposit the modified award amount along with accrued interest from the date of claim till the date of deposit and cost after deducting the amount already deposited if any to the credit of MCOP.No.2209 of 2010 within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the respective shares of award amount as per the apportionment made by the Tribunal along with accrued interest lying to the credit of MCOP.No.2209 of 2010 to the bank accounts of the respective claimants/respondents through RTGS within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Pns/nl
To

1.The Motor Accident Claims Tribunal,
V Small Causes Judge, Chennai.

2.The Section Officer,
Vernacular Section,
Madras High Court.

C.M.A.No.3664 of 2014

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srg 29/04/2021