THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.01.2020

CORAM

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

C.M.A.No.2695 of 2017
and
C.M.P.No.15050 of 2017

The Regional Manager,
Andhra Pradesh State Road
Transport Corporation Ltd.,
Tirupathi, Andhra Pradesh. ... Appellant/1st Respondent

Vs.

1.K.Roja ... Respondent/1st Petitioner

2.Minor Lakitha rep. by her
next friend and mother K.Roja
... 2nd Respondent/2nd Petitioner

3.T.Seenappa
4.Lakshammma ... 3rd & 4th Respondents/2nd & 3rd Respondents

Appeal filed under Section 173 of Motor Vehicles Act,1988 against the award and decree dated 30.06.2015 in M.C.O.P.No.914 of 2013 on the file of the Motor Accidents Claims Tribunal (Special District Judge), Krishnagiri.

For Appellant : Ms.G.V.Shoba

For Respondents : Mr.P.M.Duraiswamy for R1 & R2
Mr.PA.Sudesh Kumar
for M/s.Sun Associates
for R3 & R4

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

This appeal is preferred only with respect to quantum. Therefore, we are not going into the unnecessary details.

2.The deceased was working in the Police Department at the time of accident. The first respondent is the wife of the deceased aged about 21 years at the time of death of her husband. The second respondent was the minor child aged about three years at the relevant point of time. Respondents 3 and 4 are the aged parents. While respondents 1 and 2 were the applicants, respondents 3 and 4 were shown as respondents in the claim petition. The claimants made a claim for Rs.50 lakhs. The Tribunal awarded a sum of Rs.34,25,200/-. Challenging the same, the present appeal has been filed.

3.Learned counsel appearing for the appellant submitted that the Tribunal has awarded higher amount towards future loss of income. The calculation done by the Tribunal was also incorrect. The Tribunal made a deduction of 1/4th amount towards the personal expenses of the deceased as against 1/2 with respect to actual income and thereafter future prospects. Therefore, there is a mistake committed in adding the present income with the future prospects and thereafter deducting 1/4th amount. Similarly, for the other conventional heads, higher amounts have been awarded.

4.Learned counsel appearing for the claimants/respondents would submit that the Tribunal has committed an error in not adding a sum of Rs.1,55,264/- towards the medical expenses. Had it been done, then the compensation amount would have come closer to the one awarded, even assuming the contention of the appellant with respect to the loss of income is correct.

5.Considering the submission, we are of the view that the Tribunal did commit an error in making deduction towards actual income and thereafter for future income. Therefore, applying the correct methodology, loss of income comes to Rs.27,97,248/-. We add the medical expenses of Rs.1,55,264/- to that amount. On the conventional heads, we are not inclined to interfere with the same as it is too low and taking into account the fact that the Tribunal has awarded heavy amounts under other heads. At the time of death of her husband, the first respondent was aged about 21 years at the relevant point of time and the child was aged about 3 years. Though it is submitted that she got employment after the death of her husband, the particulars of the nature of employment and the income derived by her has not been given. On the whole, we also find that the compensation amount awarded is very just and proper. The deceased was aged about 31 years at the relevant point of time. Similarly, non-mentioning of the other vehicle would not be fatal in view of the finding on facts rendered by the Tribunal. In such view of the matter, the compensation arrived at is Rs.32,62,512/-, which we round off to Rs.32,63,000/-. The compensation now awarded by this Court has to be apportioned amongst the claimants in the same ratio as ordered by the Tribunal.

6. In such view of the matter, the Civil Miscellaneous Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

7.The appellant 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.914 of 2013 on the file of the Motor Accidents Claims Tribunal (Special District Judge), Krishnagiri within a period of eight weeks from the date of receipt of a copy of the judgment.

8.We also direct the Tribunal to transfer the entire amount deposited by way of RTGS to the bank accounts of claimants 1, 3 and 4 within a period of three weeks from the date of deposit of the award amount. On such transfer, claimants 1, 3 and 4 are entitled to withdraw the same. Insofar as the share of the minor second claimant is concerned, the same shall be invested in any one of the Nationalised Banks till she attains majority. The first claimant is permitted to withdraw the interest accrued on the minor's deposit once in three months directly from the Bank.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Mmi

To

1.The Special District Judge,
The Motor Accidents Claims Tribunal,
Chennai.

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

+1cc to Mr.PA.Sudesh Kumar, Advocate, S.R.No. 3068
+1cc to Mr.P.M.Duraiswamy, Advocate, S.R.No. 3062
+1cc to Mr.G.V.Shoba, Advocate, S.R.No.2978

C.M.A.No. 2695 of 2017

BR(CO)
GN(16/12/2020)