

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.NO.1079 OF 2015

AND

C.M.A.NO.4461 OF 2019

AND

M.P.NO.1 OF 2015

C.M.A.No.1079 of 2015

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Villupuram, Kancheepuram Division. ..Appellant/Respondent

Vs.

1.M. Nagalakshmi

2.M. Malarkodi (Minor)

3.M. Shankar (Minor)

(minor 2 & 3 are rep by
mother and Next friend Mrs.M.Nagalakshmi)

4.R. Saratha

..Respondents/Claimants

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accident Claims Tribunal, (Special Sub Judge No.II) Chennai in M.C.O.P.No.524 of 2012 dated 21.04.2014.

For Appellant : Mr. K.J. Shivakumar

For Respondents : Mr. K. Varadhakamaraj

C.M.A.No.4461 of 2019

1.M. Nagalakshmi

2.M. Malarkodi (Minor)

3.M. Shankar (Minor)

(Minors rep by their mother and
Next friend Mrs.M.Nagalakshmi)

4.R. Saratha

..Appellants/Claimants

Vs.

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Villupuram, Kancheepuram Division.

..Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 21.04.2014 made in M.C.O.P.No.524 of 2012 on the file of Motor Accident Claims Tribunal (Special Sub Court-II) Chennai.

For Appellants : Mr. K. Varadhakamaraj

For Respondent : K.J. Shivakumar

C O M M O N J U D G M E N T

C.M.A.No.1079 of 2015 is filed by the Transport Corporation and C.M.A.No.4461/2019 is filed by the claimants for enhancement of compensation. In both the appeals quantum is challenged.

2. The factum of the accident; the manner of the accident and negligence on the part of the driver of the vehicle is not under challenge.

3. The deceased/R.Muthu is the husband of the first claim petitioner herein and the claim petitioners 2 and 3 are daughter and son respectively and fourth petitioner is the mother of the deceased and he said to have been working as a Mason. The claim petitioners have not produced any certificate from the Tamilnadu Building Workers Association. However, the Tribunal taking into consideration has held that the deceased was a Mason and following the decision reported in Syed Siddiq Ali case, has fixed Rs.6,500/- as monthly income. The same is confirmed.

4. Since the claimant was hardly 30 years at the time of the accident, following the judgment of the Constitution Bench of the Honourable Apex Court in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC), 40% has to be added towards future prospects. After adding 40% the monthly income would be at Rs.9,100/- (Rs.6,500/- + 40% of Rs.6,500/-).

5. The size of the family is 4 and therefore, as per the judgment of the Honourable Supreme Court in Sarla Verma & Others .Vs. Delhi Transport Corporation & another, reported in 2009 (2)

TNMAC 1 (SC) 1/4th has to be deducted towards personal expenses and after deducting 1/4th, the monthly contribution would be Rs.6,825/- (Rs.9,100/- (-) 1/4th of Rs.9,100/-).

6. The appropriate multiplier as per the judgment of the Honourable Supreme Court in Sarla Verma & Others Vs. Delhi Transport Corporation & another, reported in 2009 (2) TNMAC 1 (SC) is "17", as the age of the deceased was 30. Therefore, loss of income would be Rs.13,92,300/- (Rs.6,825/- X 12 X 17).

7. Loss of consortium:

As per the Constitution Bench's judgment in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC), a sum of Rs.40,000/- has to be awarded to the widow towards consortium, whereas the Tribunal as per the settled position of law at the time of passing of award, though rightly awarded a sum of Rs.1,00,000/-, it has to be reduced to Rs.40,000/- and accordingly, it is reduced.

8. Loss of love and affection:

For 2nd and 3rd respondents/minors, a sum of Rs.1,00,000/- each is awarded towards loss of love and affection as the same is akin to the amount awarded towards loss of consortium to the wife. A sum of Rs.50,000/- is awarded towards loss of love and affection to the 4th respondent/mother of the deceased. Totally, a sum of Rs.2,50,000/- is awarded to the respondents 2 to 4 towards loss of love and affection.

9. Funeral Expenses:

As per the Constitution Bench's judgment in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC), Rs.25,000/- awarded by the Tribunal towards funeral expenses is reduced to Rs.15,000/-.

10. Transport Charges:

No amount was awarded by the Tribunal towards transport charges. Therefore, a sum of Rs.15,000/- is awarded by this Court towards transport charges.

11. Loss of Estate:

Since no amount was awarded by the Tribunal, towards loss of estate, as per the Constitution Bench's judgment of the Honourable Apex Court in National Insurance Company Limited V. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC), a sum of Rs.15,000/- is awarded under this head.

12. Hence, award amount of a sum of Rs.13,69,500/- as ordered by the tribunal stands enhanced to Rs.17,27,300/-.

13. Consequently, the total compensation amount of Rs.13,69,500/- awarded by the Tribunal is hereby modified and enhanced to Rs.17,27,300/-. The Transport Corporation is directed to deposit the modified award amount of Rs.17,27,300/- along with the interest, within a period of twelve weeks, from the date of receipt of copy of the judgment and on such deposit, the claimants are permitted to withdraw the entire award amount by filing an appropriate application and the payments are to be made through RTGS. The shares of the claimants shall be in the same proportion as apportioned by the Tribunal. Thus, the award dated 21.04.2014, passed in M.C.O.P.No.524/2012, stands modified and C.M.A.No.4461/2019 filed by the claim petitioners stands allowed in part and C.M.A.No.1079/2015 filed by the Transport Corporation is dismissed. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

AT

To

1. The Motor Accidents Claims Tribunal,
(Special Sub Judge No.II), Chennai.

Copy to

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

+1cc to Mr.K.Varadhakamaraj, Advocate, Sr.No.15478

+1cc to M/s.K.J.Sivakumar, Advocate, Sr.No.15691

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C.M.A.No.1079 of 2015 and
C.M.A.No.4461 of 2019 and
M.P.No.1 of 2015

LN (CO)

KKV/01/04/2021