IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3011 of 2019

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Railway Station New Road,
Kumbakonam – 612 001. ...Appellant

Vs.

1.Asokan,
S/o.Duraisami

2.Prabu @ Pavadai Raj,
S/o.Asokan

3.Gokulnath,
S/o.Asokan ...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 03.01.2019 made in M.C.O.P.No.1727 of 2016 on the file of the Motor Accidents Claims Tribunal, Special Sub Judge, Cuddalore.

For Appellant : Mr.L.Ramanathan
for Mr.D.Venkatachalam

For Respondents: Ms.A.Subadra

JUDGMENT

The State Transport Corporation is the appellant in this appeal and is aggrieved by the impugned Judgement and decree dated 03.01.2019 passed by the Motor Accidents Claims Tribunal, Special Sub Judge, Cuddalore in M.C.O.P.No.1727 of 2016.

2. The Tribunal has awarded a sum of Rs.14,74,000/- by reckonening the monthly income of the deceased as Rs.6,500/- per month. The impugned Judgment and decree passed by the Tribunal is questioned on the ground that the Tribunal has deducted only 1/3rd and has awarded 50% towards future prospects.

3. It is submitted that as per the decision of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi

Transport Corporation and Another, (2009) 6 SCC 12, the deduction has to be 50% as the deceased was a Bachelor aged about 16 years and that as per the decision of the Hon'ble Supreme Court in National Insurance Co. Ltd. Vs. Pranay Sethi and Others, (2017) 16 SCC 680, the amount to be included towards future prospects should have been 40% instead of 50%. Therefore, the learned counsel for the appellant/State Transport Corporation prays for modification of the impugned order.

4. Defending the impugned Judgment and decree, the learned counsel for the respondents/claimants submits that though the legal submission of the learned counsel for the appellant/State Transport Corporation is correct, the Tribunal has awarded the aforesaid sum/compensation by considering the meagre amount of notional income of Rs.6,500/- per month merely because the deceased was about 16 years and no other proof was filed. She further submits that the accident is of the year 2016, therefore by another enhancement has to be made. The Tribunal should have considered slightly higher income even in absence of direct evidences regarding the income. Therefore prays that if there is enhancement in the notional income of the deceased, the amount of compensation to be awarded to the respondents/claimants could have been moreorless the amount that has been awarded by the Tribunal even though it is on a wrong calculation and contrary to the decision of the Hon'ble Supreme Court in Sarla Verma and Pranay Sethi.

5. Heard the learned counsel for the appellant and the respondents.

6. In my view, the Tribunal has considered a very low notional income of 6,500/- per month while awarding compensation this Court perhaps appears to be on account of the decision of the Hon'ble Supreme Court in Syed Sadiq Vs. United India Insurance Co. Ltd., (2014) 2 SCC 735, however, the said decision was rendered in the context of an accident of the year 2008.

7. Though the deceased was aged about 16 years and was stated to be a salesman, I am of the view that the Tribunal ought to have awarded compensation to the deceased at monthly income of Rs.8,500/- per month. Accordingly, the compensation payable is recomputed as follows:-

Heads and Calculation	Amount
Loss of earning capacity:- Monthly Income : Rs.8,500/- Add: Future Prospects at 40 % (8,500 x 40/100) : Rs.3,400/- ---------------- : Rs.11,900/- Less: Personal Expenses 1/3rd (11,900x 1/3) :Rs. 3,967/- ---------------- : Rs. 3,967/- Annual Contribution to the family (3,967 x 12) : Rs.47,604/- Multiplier 18 (47,604 x 18) : Rs.8,56,872/-	Rs.8,56,872/-
Loss of Filial Consortium to the 1st respondent	Rs. 40,000/-
Loss of Love and Affection to the 2nd & 3rd respondents (Rs.30,000/- each)	Rs. 60,000/-
Loss of Estate	Rs. 25,000/-
Funeral Expenses	Rs. 15,000/-
Total	Rs.9,96,872/- Rounded of to Rs.9,97,000/-

8. The appellant/State Transport Corporation is therefore directed to deposit the compensation of Rs.9,97,000/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment.

9. On such deposit being made by the appellant/State Transport Corporation, the 1st respondent/1st claimant is permitted to withdraw his respective share in the same proportion as was ordered by the Tribunal, together with interest accrued thereon, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

10. Since the 2nd & 3rd respondents/2nd & 3rd claimants are stated to be minors at the time of filing of the claim petition, their shares shall be deposited in an interest bearing account and the interest shall be allowed to be withdrawn by the 1st respondent/1st claimant for the benefit of the minors. On attaining the age of majority, the 2nd & 3rd respondents/2nd & 3rd claimants may also file appropriate application for withdrawing their share of compensation.

11. This Civil Miscellaneous Appeal stands partly allowed with the above observations. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

arb

To:
1.The Motor Accidents Claims Tribunal,
Special Sub Judge, Cuddalore.

+1 Cc to M/s.M. Malar, Advocate sr 23171
+1 CC to Mr.D.Venkatachalam, Advocate sr 22844.

C.M.A.No.3011 of 2019

SSV(CO)
SP(11/11/2021)