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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3956 of 2019

and

Cros.Obj.No.15 of 2020

In C.M.A.No.3956 of 2019
Managing Director,
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Railway Station New Road,
Kumbakonam - 612 001.

... Respondent/ Appellant

Vs.

1. Minor. S.Gowtham
2. Minor S. Muralidharan
3. A.Muthukrishnan,
(Minor petitioners rep by grandfather,
guardian NF, Muthukrishnan)
All are residing at Post Office Street,
Karamanikuppam and Post,
Cuddalore Taluk.
Permanently residing at 8B1, Old Pillayarkuppam,
Maligampattu, Panruti Taluk. ...Petitioners/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Decree and Judgment dated 15.04.2019 made in M.C.O.P.No 1759 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Cuddalore and be pleased to dismiss the above claim as against the appellant.

For Appellant : Mr.L.Ramanathan
For Respondents-1&2 : Mrs.Ramya V. Rao
for Mr.D.Venkatachalam

In Cross Objection No.15 of 2020

1. Minor. S.Gowtham S/o.Late Selvakumar
2. Minor S. Muralidharan S/o.Late Selvakumar
3. A.Muthukrishnan,
Father of Late Selvakumar
Respondents 1 to 3 residing at



Old Post Office Street,
Karamanikuppam and Post,
Cuddalore Taluk.

... Cross Objectors/ Respondents 1 to 3

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Vs

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

..Respondent/ Appellant

Cross Objection filed under Order 41, Rule 22 of CPC, to enhance the award amount in the Cross Objection.

For Cross Objectors : Mrs.Ramya V. Rao
For Respondent : Mr.L.Ramanathan
for Mr. D.venkatachalam

JUDGMENT

This appeal in C.M.A.No.3956 of 2019 has been filed by the State Transport Corporation questioning the award amount.

2. In this appeal, the appellant/State Transport Corporation submits that a sum of Rs.9,05,000/- would be a just compensation as against Rs.19,05,000/-.

3. The claimants who are two minors have filed a cross objection in cross objection No.15/2020 and they seek for enhancement of compensation.

4. The tribunal while awarding the compensation of Rs.19,05,000/-, has considered a notional income of Rs.10,000/- of the deceased namely N. Selvakumar.

5. In the claim statement, it has been stated that the deceased was earning a sum of Rs.40,000/- per month and was earning income from agricultural activities apart from wholesale and retail business of cashewnut and other seasonal foods in Panruti.

6. The learned Counsel for the respondents/claimants (minors) submits that in the absence of direct evidence to substantiate monthly income of Rs.40,000/-, the monthly income of the deceased can be considered as Rs.20,000/- per month for awarding just compensation.



7. Defending the impugned judgement and decree, the learned Counsel for the respondents submits that the tribunal has considered monthly income of Rs.10,000/- which itself is exaggerated and therefore, submits that the appeal filed by the State Transport Corporation can be allowed.

8. I have considered the arguments advanced by the learned Counsels and perused the exhibits which came to be marked by the tribunal and the deposition of P.W.1 and P.W.2.

9. It is a pathetic case of two young minor children aged 10 years and 7 years at the time of accident when their father passed away. The 3rd respondent is the father of the deceased. Already, the wife of the deceased/the mother of the respondents 1 and 2 had pre-deceased.

10. Considering the year of accident, it would be reasonable to construe a notional income of Rs.15,000/- for awarding Just compensation as two young children who have been orphaned on account of the death of their father as they are already lost their mother.

11. In this circumstances, the amount awarded by the tribunal is enhanced by considering the notional income of the deceased M.Selvakumar, aged 38 years at the time of accident as Rs.15,000/- per month.

12. On the aforesaid amount, there shall be an addition of 40% towards future prospects as per the decision of the Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680.

13. Considering the age of the deceased as 38 years, the correct multiplier adopted is 15% 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.

14. Since, the 1st & 2nd respondents/1st & 2nd claimants are two young children and the 3rd respondent/3rd claimant is father of the deceased, they are entitled for compensation towards Parental Consortium and loss of Filial Consortium respectively as per the decision of the Hon'ble Supreme Court in Magma Insurance Company Limited Vs Nanuram @ Chuhruram and others, (2018) 18 SCC 130.

15. In this circumstances, the amount awarded by the tribunal for a sum of Rs.19,05,000/- is enhanced to Rs.26,85,000/- as details below:-





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*** Parental Consortium and Love and Affection is granted by this court as per the decision of the Hon'ble Supreme Court in Magma Insurance Company Limited Vs Nanuram @ Chuhruram and others, (2018) 18 SCC 130.

16. The appellant/State Transport Corporation is therefore directed to deposit the enhanced amount of compensation of Rs.26,65,000/- 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.

17. Since the 1st and 2nd respondents/1st and 2nd 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 their grand father 3rd respondent/3rd claimant for the benefit of the minors. On attaining the age of majority, the 1st and 2nd respondents/1st and 2nd claimants may also file appropriate application for withdrawing their shares of compensation.

18. In the result, the Civil Miscellaneous Appeal filed by the appellant/State Transport Corporation is dismissed and the cross objection filed by the respondents/claimants is partially allowed. No costs.

s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

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To:

1.The Motor Accident Claims Tribunal,
Special Sub Judge, Cuddalore.

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

+1 CC to Mr. Viswanatha Rao, Advocate sr 28807.

+1 CC to Mr.D.Venkatachalam, Advocate sr 28389.

C.M.A.No.3956 of 2019 and
Cros.Obj.No.15 of 2020

MG(CO)
SP(13/09/2021)