IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.4043 of 2019
&
Cros.Obj.No.8 of 2020
&
C.M.P.No.22840 of 2019

C.M.A.No.4043 of 2019:

Managing Director
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Railway Station New Road,
Kumbakonam ...Appellant

Vs

1.S.Anandanayagi
2.Minor S.Dheekshana
3.Kannan
4.Kanjanamala ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and decree dated 16.04.2019 made in M.C.O.P.No.2647 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Cuddalore.

For Appellant	:	Mr.Venkatachalam.D
For Respondent 1	:	Mrs.Ramya V Rao
For Respondent 2	:	Minor Rep. by the 1st respondent.
For Respondent 3 & 4	:	Not ready in notice.

Cros.Obj.No.8 of 2020:

1.S.Anandanayagi
2.Minor S.Dheekshana ... Cross Objectors

Vs.

1.Managing Director
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Railway Station New Road,

Kumbakonam

2.Kannan
3.Kanjanamala

Prayer: Cross objection filed under Order 41 Rule 22 of the CPC against the Judgement and Decree dated 16.04.2019 made in M.C.O.P.No.2647 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Cuddalore.

JUDGEMENT

The Transport Corporation has filed the above appeal questioning the quantum of compensation granted by the Motor Accident Claims Tribunal (Special Sub Judge), Cuddalore. The claimants have filed a cross objection. The brief facts are as follows:

2. On 02.05.2017, the deceased Sukumar, the husband of the 1st

petitioner, the father of the 2nd petitioner and the son of the respondents 2 and 3, who was aged about 23 years and working as a Driver with Arokya Milk Firm had met with an accident involving the bus owned by the 1st respondent / appellant herein. The bus in question TN 68 N 0334, which came in the opposite direction hit the motor cycle in which the deceased was travelling, as a result of which he sustained fatal injuries. The petitioners have claimed a sum of Rs.30,00,000/- as compensation.

3. The respondent Transport corporation had denied the issue of negligence and had also stated that the quantum claimed is very high.

4. The Tribunal below on perusing the document and the evidence arrived at a compensation of Rs.20,75,360/-. The Tribunal had taken a notional income of Rs.8,000/- to which 40% was added towards future prospects and a multiplier of 18 was applied. The

Tribunal had arrived at a Loss of dependency of Rs.24,19,200/- out of which 1/5th was deducted towards personal expenses, though the statement in the order would indicate that 1/3rd has been deducted.

5. The deceased was aged 23 years and his driving licence has been produced as Ex.P.8. P.W.1 has adduced evidence that he was working as a driver and this contention has not been rebutted. Therefore, it can be safely confirmed that the deceased was eking out his livelihood as a driver. Therefore, applying the ratio laid down in ***Andal and others Vs. Abhinav Kannan and others - (2019) (1) TN MAC 54,*** the notional income can be fixed at a sum of Rs.12,000/-, to which 40% be added towards future prospects. Therefore, the notional income would worked out to a sum of Rs.16,800/-. Therefore, the Loss of Dependency is worked out as follows:

Rs.16,800/- X 12 X 18 - 1/3 = Rs.24,19,200/-.

6. Further, the Tribunal has awarded a sum of Rs.70,000/- towards Love and Affection. The parents and the minor child have lost the love and affection of the deceased. Therefore, applying the principles of the Judgement reported in ***2017 (2) TNMAC 609 – National Insurance Company Vs. Pranay Sethi & others,*** a sum of Rs.1,20,000/- is enhanced under the head of Loss of Love and Affection. Therefore, the modified compensation would be a sum of **Rs.26,09,200/-.** The award is therefore enhanced by a sum of **Rs.5,33,840/-.**

7. The award passed by the Tribunal below is modified as follows:

Loss of Dependency	**Rs.24,19,200/-**
Love and Affection	**Rs.1,20,000/-**

Loss of Dependency	**Rs.24,19,200/-**
Loss of Estate	**Rs.15,000/-**
Loss of Consortium	**Rs.40,000/-**
Funeral Expenses	**Rs.15,000/-**
Total	**Rs.26,09,200/-**

8. The Transport Corporation is directed to deposit the enhanced award amount along with interest and costs, less the amount already deposited within a period of six weeks from the date of receipt of a copy of this Judgement, to the credit of M.C.O.P.No.2647 of 2017. The major claimants shall show proof of payment of the Court fees and only on such proof the claimants are permitted to withdraw the award amount, after adjusting the amount, if any, already withdrawn, by filing necessary application before the Tribunal. The share of the minor claimant, namely, the 2nd claimant is directed to be deposited in Fixed Deposit in any one of the Nationalised Banks till she attain majority. On such deposit, the 1st claimant being the mother of the minor claimant is permitted to withdraw the accrued

interest once in every three months for the welfare of the minor appellant. The proportion of allocation of shares adopted by the Tribunal shall stand confirmed.

9. C.M.A.No.4043 of 2019 is partly allowed. The deduction towards personal expenses which was wrongly calculated at $1/5^{th}$ by the Tribunal below has been rectified to $1/3^{rd}$. The Cross Objection No.8 of 2020 filed by the claimants is allowed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

16.03.2022

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Index : Yes/No
Speaking order/non-speaking order

To

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

P.T.ASHA, J.,

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C.M.A.No.4043 of 2019

16.03.2022