**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 16.10.2023**

**CORAM: JUSTICE N.SESHASAYEE**

**CMA.No.2519 of 2023**
**& CMP.No.23354 of 2023**

Managing Director,
Tamil Nadu State Transport Corporation,
No.12, Ramakrishna Road, Salem – 636 007. ... Appellant

-Vs-

1.Mathayan @ Kuppan
2.Erusa Gounden
3.Soundirarajan
4.Poongkodi
5.R.Murugesan ...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V.Act, 1988, against the Judgement and decree passed in M.C.O.P.No.2 of 2017 passed by the Motor Accidents Claims Tribunal Subordinate Court, Sankari on 09.12.2022.

For Appellant : Mr.D.Nitin

**JUDGMENT**

The appellant herein is the State Transport Corporation, which challenges the Award passed by the Tribunal on a short question of the portion deductible towards the personal expenditure of the victim of the accident. On 06.04.2016, at around 4.40 p.m. while certain Danalakshmi was traveling as a pillion rider in a motor cycle bearing Regn.No.TN 34 Q 9528 with her son Soundirarajan, the Bus bearing Regn.No.TN 27 N 1552, which belong to the appellant, dashed against them, in which Danalakshmi died on the spot. Claiming a compensation of Rs.35,00,000/-, the heirs and dependents of Danalakshmi moved the Tribunal.

2.The victim was 43 years old at the time of the accident and this was not disputed. She was also stated to be working in a spinning mill and was alleged to be earning around Rs.7,500/- and beyond that she was also earning another Rs.6,000/- per month. However, the Tribunal has fixed her income notionally at a mere Rs.5,000/-. In terms of the decision in ***Sarala Varma Vs. Delhi Transport Corporation & another*** [(2009) 6 SCC 121] case, only when the total number of dependents are 5 and above ¼th of the total income is required to be deducted. Whereas, the Tribunal has deducted ¼th even when the number of dependents are shown to be only 4. After doing what it has done, the Tribunal had arrived at a total compensation at Rs.8,64,500/- and had given a discount of 20% towards the the contributory negligence of the driver and arrived at a net compensation amount of Rs.6,91,600/-. This is now under challenge.

3.There is merit in the case of the appellant but, that is limited only to a small extent of where the Tribunal had chosen to deduct 1/4th towards the personal expenses of the deceased, when it ought to have deducted 1/3rd. However, what this Court notices is that the notional income as fixed by the Tribunal is faulty. Even if she were a home maker, her services to the family are required to be treated at a better footing, which would do some dignity to her services.

4.Therefore given the fact the Tribunal had awarded only Rs.5,000/- as the notional income for the deceased, this Court considers that any further tinkering would imply that the victim is treated with lesser dignity.

5.For the reasons stated, this Civil Miscellaneous Appeal is dismissed and the Award of the Tribunal is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

16.10.2023

Tsg

To

1.The Motor Accidents Claims Tribunal,
Subordinate Court, Sankari

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

**N.SESHASAYEE, J.,**

Tsg

**CMA.No.2519 of 2023**

**16.10.2023**