
(2014) 04 MAD CK 0149

In the Madras High Court

Case No : Civil Miscellaneous Appeal No. 1488 of 2014 and M.P. No. 1 of 2014

Managing Director

APPELLANT

Vs

Kalamani

RESPONDENT

Date of Decision : 30-04-2014

Acts Referred:

Citation : (2014) 6 MLJ 207

Hon'ble Judges : S. Manikumar, J

Bench : Single Bench

Judgement

S. Manikumar, J.—At the outset, when the appeal came up for hearing, Mr. Ponram Rajaa, learned counsel for the State Transport Corporation, submitted that the quantum of compensation of Rs. 9,43,000/- with interest, at the rate of 7.5% per annum, awarded to wife and minor daughter, the legal representatives of the deceased, alone is the challenge in this appeal. Submission of the learned counsel is placed on record. According to the respondents/claimants, at the time of accident, deceased was aged 38 years, self employed and by running a Chicken Stall on Poochiyur Road, Narasimmanaickenpalayam, Coimbatore, he earned Rs. 10,000/-. But the claims tribunal has fixed the loss of annual income as Rs. 50,000/-, after deducting 1/3 towards the personal and living expenses of the deceased and by applying "16" multiplier, computed the loss of contribution as Rs. 8,00,000/-. Under the head loss of consortium, the claims tribunal has awarded Rs. 10,000/-. For loss of love and affection to the minor and to the wife, the claims tribunal has awarded Rs. 10,000/-. Perusal of the award shows, that after the accident, on 03.09.2008, the injured was admitted in hospital and despite, treatment and incurring expenditure of Rs. 1,13,000/-, he died. Therefore, on the basis of medical bills, a sum of Rs. 1,13,000/- has been awarded. Further, the claims tribunal has awarded Rs. 5,000/- each for transportation and funeral expenses. Altogether, the claims tribunal has awarded Rs. 9,43,000/-.

2. The quantum of compensation is challenged on the grounds inter alia that the

claims tribunal erred in fixing the monthly income as Rs. 6,250/-.

3. Though, the State Transport Corporation has assailed the quantum of compensation on the grounds inter alia that the claims tribunal has fixed a higher monthly income for computing the loss of dependency and further contended that a sum of Rs. 1,13,000/- awarded under the head medical expenses, is without basis, having regard to the date of accident, avocation of the deceased, oral evidence of PW3, to support the avocation that deceased was running a chicken stall and Ex. P23, certificate issued by R.P. Traders, this Court is not inclined to accept the contention of the transport corporation. PW3, has deposed that at a place called Vellaikinaru, under the name and style of "Suguna Broiler Chicken stall", he was running a wholesale business in sale of chicken and that the deceased was a retailer. He has also deposed that for nearly 10 years, the deceased used to buy chicken and sell the same, as a retailer. Though, he has marked Ex. P22, a certificate issued by one Khanna Broilers and Ex. P23, certificate issued by R.P. Traders to prove that PW3, was a wholesaler, no documents have been filed by the claimants as to the extent of procurement of chicken from the wholesaler. Thus, the claims tribunal, on the testimony of PW3, has arrived at a conclusion that the deceased as a retailer, engaged in sale of chicken by having a stall at Krishnammal Nagar, Poochiyur Road, Narasimmanaickenpalayam, Coimbatore, would have earned annually Rs. 50,000/- i.e., income, at the rate of Rs. 4166/- per month, after deducting 1/3 towards the personal and living expenses of the deceased, from the monthly income of Rs. 6,250/- and computed the loss of contribution to the family.

4. At this juncture, this Court deems it fit to consider the decision of the Apex Court in Sri Ramachandrappa Vs. The Manager, Royal Sundaram Alliance Insurance Company Limited, wherein even for a labourer, who died in the year 2004, the supreme Court fixed the monthly income as Rs. 4,500/-. The deceased, stated to be running a chicken stall cannot be equated to a labourer and hence, the monthly income fixed in the year 2008, should be higher than the income of a labourer. Increase in the cost of living, depends upon the wage revision also. When the same applies to a labourer, there cannot be any different yardstick in the case of a small traders or vendors, who are self employed. As regards the avocation, there is no reason to reject the testimony. The deceased is survived by wife and a minor daughter. To provide them food, shelter, education and other basic amenities one requires a reasonable income. Sum of Rs. 4,166/- taken as monthly contribution to the family in the year 2008, i.e., at Rs. 139/- per day, cannot be said to be grossly excessive. Besides, providing the basic amenities, stated supra, one may have to incur periodical expenditure such as payment of water charges, electricity charges and other expenses, transportation, etc.

5. For the reasons stated supra, this Court is not inclined to reduce the monthly income and consequently, interfere with the quantum of compensation awarded under the head loss of contribution to the family. Compensation awarded under

the other heads, cannot be said to be grossly excessive. On the contra, the award of Rs. 5,000/- each, under the heads funeral expenses and transportation is less. Quantum of compensation of Rs. 1,13,000/- awarded under the head medical expenses is duly supported by bills. Therefore, the award does not require any interference. The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. Consequent to the dismissal of the appeal, the appellant-Transport Corporation, is directed to deposit the entire award amount, with proportionate accrued interest and costs, less the statutory deposit, to the credit of M.C.O.P. No. 160 of 2010 on the file of the Motor Accidents Claims Tribunal (Additional District Judge, FTC - 3), Coimbatore, if not deposited earlier, within a period of four weeks from the date of receipt of a copy of this order. At the time of filing of the claim petition in the year 2009, the minor/2nd respondent was aged 14 years and by this time, she would have attained majority. Therefore, on such deposit, the respondents/claimants, are permitted to withdraw their share in the award amount with proportionate accrued interest and costs, as apportioned by the tribunal, by making necessary applications.