

(2015) 01 MAD CK 0065

In the Madras High Court

Case No : C.M.A. No. 42 of 2015 and M.P. No. 1 of 2015

Managing Director

APPELLANT

Vs

Panchavarnam

RESPONDENT

Date of Decision : 08-01-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 33

Citation : (2015) 01 MAD CK 0065

Hon'ble Judges : N. Kirubakaran, J.

Bench : Single Bench

Advocate : K.J. Sivakumar, for the Appellant

Final Decision : Dismissed

Judgement

N. Kirubakaran, J.—This Civil Miscellaneous Appeal has been preferred by the Transport Corporation as against the award of Rs. 5,55,000/-, in favour of the claimants/respondents herein, for the death of one Krishnamurthy, in the accident which occurred on 25.12.2011, when he was hit by a bus belonging to the appellant Corporation, driven rashly and negligently, while he was standing on the road.

2. The legal heirs of the deceased filed the claim petition before the Tribunal seeking compensation to the tune of Rs. 10 lakhs. On enquiry, the Tribunal found that the accident occurred because of the rash and negligent driving by the driver of the bus and awarded a sum of Rs.5,55,000/-. The said award is questioned on the ground of quantum by the Transport Corporation.

3. Heard Mr.K.J. Sivakumar, learned counsel for the appellant, who would submit that in the absence of any proof regarding monthly income, the Tribunal erred in fixing Rs.4500/- as monthly income of the deceased.

4. However, the said contention is not acceptable, taking into consideration, the fact that the occurrence of the accident was on 25.12.2011. In 2011, it was very difficult to get a job done for a sum of Rs.4500/-. The Honourable Apex Court, in

the judgment rendered in Syed Sadiq etc. Vs. Divisional Manager, United India Ins. Company, , fixed Rs.6500/- as the monthly income for a vegetable vendor, who sustained injuries in the accident, which took place in 2008. Whereas, in the case on hand, the date of the accident is 25.12.2011. Therefore, the monthly income determined by the Tribunal is very low and the same is enhanced to Rs.6500/-. Since the family of the deceased consists of two members, following the judgment of the Honourable Apex Court rendered in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , one-third deduction has to be made towards "personal expenses". Further, as per the said judgment, the appropriate multiplier, to be adopted, based on the age of the deceased, namely, 45 years, is 14. Therefore, multiplier 15 adopted by the Tribunal is reduced to 14. Accordingly, taking the monthly income as Rs.6500/-, applying one-third deduction and multiplier 14, "Loss of Income" is calculated as follows:

5. It is really shocking to note that the Tribunal has awarded only a sum of Rs.10,000/- towards "Loss of Consortium" to the 1st respondent/wife and Rs.5000/- towards "Loss of love and affection" to the 2nd respondent/daughter. As per the judgment of the Honourable Apex Court rendered in Rajesh and Others Vs. Rajbir Singh and Others, , atleast a sum of Rs.1 lakh should be awarded towards "Loss of Consortium". Accordingly, Rs.1 lakh is awarded under the said head. The sum of Rs.5000/- awarded towards "Loss of love and affection" to the 2nd respondent is enhanced to Rs.50,000/-.

6. Besides, for reasons best known to the Tribunal, no amount has been awarded even under the conventional heads, namely, "Transportation Charges" and "Funeral Expenses". Hence, a sum of Rs.10,000/- is awarded towards "Transportation Expenses" and Rs.15,000/- is awarded towards "Funeral Expenses". Hence, the award of the Tribunal, to the tune of Rs.5,55,000/- is enhanced to Rs.9,02,944/- rounded off to Rs.9,00,000/- together with interest @ 7.5% per annum.

7. Though the appeal has been filed by the Transport Corporation against the award of the Tribunal, this Court, suo motu, has enhanced the compensation to the tune of Rs.9 lakhs, following XLI Rule 33 CPC by reappreciating the evidence on record and applying the correct law, as on date. What is to be awarded is just and reasonable compensation and therefore, this Court, even in the absence of appeal/cross-appeal by the claimants/respondents and even in the absence of the respondents, has enhanced the compensation.

8. The appellant Transport Corporation is directed to deposit the entire amount along with interest and costs, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order failing which the Managing Director of the Transport Corporation shall appear before this Court on 2nd March, 2015.

9. The Civil Miscellaneous Appeal is dismissed. No costs. Connected M.P. Is closed.

10. Post on 2.3.2015 for reporting compliance.