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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1295 of 2026

1.S.Janaki
W/o.Sivakumar

2.Subinraj (minor)
S/o.Sivakumar

3.Manorajan (minor)
S/o.Sivakumar

(Minor petitioners 2 & 3 Rep.by her
M & N.F.S.Janaki)

4.Pavunammal
W/o.Alagappan

5.Alagappan
S/o.Duraisamy

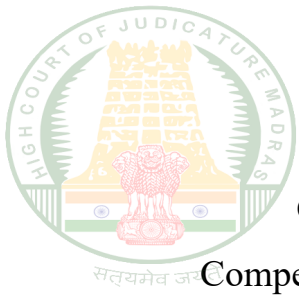
(All are residing at No.216/A-1, Pallikuda Street
Siruvakkur, Kalpatty Post, Villupuram District).

...Appellants

.Vs.

The Managing Director
State Express Transport Corporation Ltd.,
No.2, Thiruvalluvar House
Pallavan Salai, Chennai-600 002.

... Respondent



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Civil Miscellaneous Appeal filed under Section 30 of the Workmen Compensation Act, 1923, against the order in E.C.No.42 of 2023 dated 08.03.2024 passed by the Commissioner for Employees Compensation and Deputy Commissioner of Labour, Chennai.

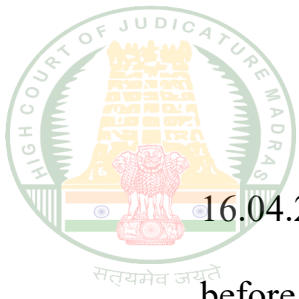
For Appellants : Mr.A.A.Venkatesan

For Respondent : Mr.S.Santhosa Kumar

JUDGMENT

This appeal has been filed under Section 30 of the Workmen Compensation Act, 1923 against the order passed by the Commissioner for Employees Compensation and Deputy Commissioner of Labour, Chennai in E.C.No.42 of 2023 dated 08.03.2024.

2.The 1st appellant is the wife, appellants 2 and 3 are the children and appellants 4 and 5 are the parents of the deceased Sivakumar. The deceased was working as a driver in the respondent Transport Corporation. On 09.04.2019, when the deceased was driving the bus on the Karur-Namakkal National Highways, at about 01.15 a.m., the offending vehicle which was a lorry, which was going in front of the bus, abruptly came to a grinding halt, as a result of which the bus driven by the deceased dashed against the lorry and the deceased suffered fatal injuries and he succumbed to the injuries on



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16.04.2019. It is under these circumstances, the petition came to be filed before the Joint Commissioner-II seeking for payment of compensation under the Workmen Compensation Act.

3.The Joint Commissioner on considering the facts and circumstances of the case and on appreciation of evidence came to a conclusion that the deceased died in the accident during the course of his employment.

4.Having rendered the above finding, the Joint Commissioner fixed the total compensation at Rs.6,90,080/- and a sum of Rs.10,000/- was added under the head of 'funeral expenses' and a direction was given to the respondent Corporation to pay the compensation of Rs.7,00,080/- along with interest at the rate of 12% p.a. Aggrieved by the same, the appellants have filed the present appeal seeking for enhancement of compensation.

5.Heard the learned counsel for the appellants and the learned counsel for respondent.

6.During the course of hearing, this Court framed the following substantial questions of law:



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(i) Whether the Deputy Commissioner of Labour was right in determining the salary as per the provisions of the Minimum wages Act?

(ii) Whether the Deputy Commissioner of Labour was correct in fixing the salary of the deceased who was working as a Bus Driver under the Opposite party and was earning Rs.21,143/- per month as Rs.8,000/- per month fixed inspite of the salary slip marked as Ex.P-6 while calculating the Compensation ?

7.The main issue that was raised on the side of the appellants is that the appellants had marked Ex.P.6 series which clearly established that the deceased was earning a monthly salary of Rs.21,143/- as the driver of the respondent Corporation and whereas the Joint Commissioner has completely disregarded the same and fixed the minimum wages as the salary at the rate of Rs.8000/- per month.

8.This Court had the advantage of going through Ex.P.6 series. It is seen that the deceased was earning a monthly salary of Rs.21,143/-. No contra evidence was brought in by the respondent Corporation by disputing this salary. In view of the same, the Joint Commissioner ought to have fixed the monthly salary at Rs.21,143/- and instead the Joint Commissioner has erroneously fixed the monthly salary at Rs.8,000/- per month by considering



the minimum wages. Accordingly, both the substantial questions of law are answered in favour of the appellants.

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9. In the light of the above discussion, the compensation amount is calculated as follows:

$$[50/100 \times 172.5 \times \text{Rs.}21,143/- = 18,23,585 + \text{funeral expenses:} \\ \text{Rs.}10,000 = 18,33,584/-]$$

A sum of Rs.10,000/- is added towards funeral expenses and thus the total compensation amount is determined at Rs.18,33,584/-. This amount shall be paid with interest at the rate of 12% p.a, to the appellants by the respondent State Corporation Limited within a period of 30 days from the date of receipt of copy of this order.

10. In the result, this appeal is allowed in the above terms. No costs.

01.07.2024

Index : Yes/No
Speaking Judgment/Non-speaking Judgment
Neutral citation: Yes/No
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N.ANAND VENKATESH, J.

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To

The Commissioner for Employees Compensation
and Deputy Commissioner of Labour, Chennai-18.

Civil Miscellaneous Appeal No.1295 of 2026

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