

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2610 of 2015

State Express Transport Corporation
Chennai-2

... Appellant/Respondent

-Vs-

1. Jayaraj
S/o Periyannayagam

2. Dynas
S/o Jayaraj

3. Punitha Christin Marry
D/o Jayaraj

... Respondents/Respondents

Memorandum of Grounds of Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 against the Award and decree dated 5.8.2013 made in M.A.C.T.O.P.No.129 of 2011 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Villupuram.

For Appellant : Mr.S.Prabhu

JUDGMENT

Aggrieved over the quantum of compensation fixed by the Motor Accidents Claims Tribunal (Principal District Judge), Villupuram in M.C.O.P.No.129 of 2011 dated 5.8.2013, the present appeal has been filed by the State Express Transport Corporation, Chennai.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. Prima facie, this Court does not find any merits in the challenge to the impugned award. On perusal of the award passed by the Tribunal, it is seen that one Arul Victor, aged about 27 years, died in a road accident on 9.5.2011 caused by the driver of the bus bearing Registration No.TN 01 N 8102 belonging to the appellant-Corporation while driving in a rash and negligent

manner, hence, the legal heirs of the deceased, the respondents herein filed a petition claiming a compensation of Rs.10,00,000/- together with interest. The Tribunal, on the basis of Ex.P1-First Information Report and Ex.P3-post-mortem certificate, held that the driver of the bus was responsible for the death of Arul Victor and accordingly, fixing his monthly income at Rs.5,000/- per month, in the absence of any substantial proof produced that he was earning Rs.7,500/- per month in Whirlpool Private Company, arrived at the sum of Rs.6,60,000/- by adopting the multiplier of 11 i.e., $Rs.5000 \times 12 \times 11 = Rs.6,60,000/-$. Out of the said sum, in the light of the ratio laid down by the Apex Court in Sarala Verma's case reported in 2009 (2) TNMAC 1 (SC), the Tribunal had deducted $1/3^{rd}$ for his personal expenses and arrived at the compensation of Rs.4,40,000/- under the head of loss of income. In addition thereto, the Tribunal has also awarded a sum of Rs.30,000/- under the head general damages at the rate of Rs.10,000/- for each of the respondents towards loss of love and affection. Finally an award was passed for a sum of Rs.4,70,000/- together with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of realisation. Out of the said sum, the Tribunal directed a sum of Rs.2,35,000/- to be paid to the first respondent-father, and Rs.1,17,500/- each to be paid to the second and third respondents, being the brother and sister of the deceased. Since the Tribunal has awarded a just and reasonable compensation, this Court is not inclined to interfere with the impugned award. Accordingly, the civil miscellaneous appeal is dismissed at the admission stage itself. Learned counsel for the appellant also submitted that the entire amount has been deposited before the Tribunal on 5.1.2015, therefore, the respondents/claimants are entitled to withdraw the entire amount with accrued interest on a proper application made before the Tribunal. Consequently, M.P.No.1 of 2015 is also dismissed. No costs.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal
(Principal District Judge)
Villupuram

C.M.A.No.2610 of 2015

CA(CO)
CA(04/02/2016)