IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2015

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.295 of 2015

The Managing Director
Tamil Nadu State Transport Corporation
Kumbakonam. ... Appellant/Respondent

Vs.

1. Suguna
2. Sakthi Murugan
3. Mohandas
4. Prabhavathy

All are permanently residing at
Kuthiyampettai Village
Now residing at Chidambaram ... Respondents/Claimant

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 12.03.2014 made in MCOP No.12 of 2013 on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Chidambaram.

For Appellant : Mr. D. Venkatachalam
For Respondents : Mr. T. Gopinath
for M/s. Royan Law Associates

J U D G M E N T

The appeal has been preferred by the Transport Corporation against the award of Rs.9,72,500/- for the death of one Rajamoorthy, 50 years old, Provisional Store Merchant stated to have been earning Rs.15,000/- per month, in the accident occurred on 13.10.2012.

2. Heard Mr. D. Venkatachalam, learned counsel appearing for the appellant/ Transport Corporation and Mr. T. Gopinath for M/s. Royan Law Associates, the learned counsel for the respondents/claimants.

3. The only question to be decided is with regard to the quantum of compensation. Mr. D. Venkatachalam, learned counsel for the Transport Corporation would submit that the respondents are not dependants and they are all majors and therefore the Tribunal had committed wrong in deducting ¼th towards personal expenses and only 1/3 rd has to be deducted. A perusal of the records would show that all the children are major and therefore 1/3 alone has to be deducted instead of 1/4th.

4. The Tribunal had rightly considered the monthly income of the deceased as Rs.7500/- even in the absence of any concrete evidence, which is in consonance with the judgment of the Hon'ble Supreme Court in the case of SYED BASHEER AHAMED AND OTHERS VS. MOHAMMED JAMEEL AND ANOTHER reported in (2009) 2 Supreme Court Cases 225 and therefore, the said determination is confirmed. However, the submission of the learned counsel for the Transport Corporation that all the children are major and hence 1/3rd should be deducted towards personal expenses, is accepted by this court. The multiplier, according to the age of 50 of the deceased, had been rightly applied and hence the loss of income is calculated by this Court as below :

Rs.7500 - 1/3 x 12 x 13 = Rs.7,80,000/-.

The Tribunal had awarded a sum of Rs.10,000/- towards Funeral Expenses and Rs.5000/- towards Transportation and Rs.10,000/- each towards loss of love and affection are all reasonable and hence the same are confirmed. However, Rs.50,000/- awarded towards consortium is very meagre and so as per the ratio laid down by the Hon'ble Supreme Court in the case of RAJESH AND OTHERS V. RAJBIR SINGH AND OTHERS, 2013 (3) CTC 883 S.C, this court awards a sum of Rs.1,00,000/- towards consortium to the first claimant wife.

5. Therefore, the compensation of Rs.9,72,500/- awarded by the Tribunal is reduced to Rs.9,26,000/- by this Court, as follows :-

Sl.No.	Description	Amount
1	Loss of Income	Rs. 7,80,000/-
2	Loss of Consortium	Rs. 1,00,000/-
3	Loss of love and affection [Rs.10,000/- each]	Rs. 30,000/-
4	Transportation	Rs. 5,000/-
5	Funeral expenses	Rs. 10,000/-
6	Loss of Articles	Rs. 1,000/-
	Total	Rs. 9,26,000/-

The rate of interest at 7.5% awarded by the Tribunal remains unaltered.

6. The appellant Transport Corporation is directed to deposit 50% of the entire compensation amount granted by this Court, within a period of four weeks from the date of receipt of copy of this order and the balance 50% within a period of four weeks thereafter. On such deposit being made, the respondents are permitted to withdraw their respective shares, as apportioned by the Tribunal. In case the appellant Transport Corporation fails to deposit the entire amount within such period, the Chairman cum Managing Director and the Financial Advisor of the Transport Corporation shall appear before this Court, on 25.08.2015. Post on 25.08.2015 for reporting

compliance.

7. The Civil Miscellaneous Appeal is allowed on the above lines. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
Subordinate Judge, Chidambaram.

2.The Managing Director
Tamil Nadu State Transport Corporation
Kubakonam.

3.The Chairman cum Managing Director,
the Financial Advisor,
Tamil Nadu State Transport corporation, Kumbakonam.

4.The Section Officer,
Judicial Section,
high Court, Madras.

+1 cc to Mr.D.Venkatachalam, Advocate,SR.27289

+1 cc to Royan Law Associates, SR.27264.

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