IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2015

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THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 297 of 2015
&
M.P. No. 1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Dharmapuri. ..Appellant/Respondent

Vs.

1. Narayanareddy
2. Pavithra
3. Nethravathy
4. Mohan Babu ..Respondents/Petitioner

Prayer: Civil Miscellaneous Appeal filed under section 73 of motor vehicles Act 1988 as against the judgment and decree dated 29.07.2011 passed in MACT O.P. No. 16 of 2010 by the Motor Accidents Claims Tribunal (Sub Court,), Hosur.

For Appellant :: Mr.D. Venkatachalam

For Respondents:: Mr.Pa. Sudeshkumar

J U D G M E N T

The Transport Corporation is before this Court challenging the award of Rs. 6,80,000/- passed by the Motor Accidents Claims Tribunal (Sub Court), Hosur, for the death of one Lagumamma, a 44 year old agriculturist, claimed to have earned about Rs.6000/-, in the accident, which occurred on 27.09.2009.

2. Heard Mr.D. Venkatachalam, learned counsel for the appellant and Mr.Pa. Sudeshkumar, learned counsel for the respondents/claimants.

3. According to the learned counsel for the appellant, the amount awarded towars “Loss of Income” requires to be reduced as the Tribunal did not make any deduction towards “Personal Expenses” of the deceased.

4. A perusal of the records would show that the Tribunal took Rs.3500/- as monthly income of the deceased and applying multiplier 15, awarded Rs. 6,30,000/- towards "Loss of Income". However, the Honourable Apex Court, in the judgment rendered in New India Assurance Company Limited V. Smt.Kalpana and Others reported in 2007 (1) Supreme 514, even in the absence of any proof regarding income, took Rs.3000/- as monthly income after deduction towards "Personal Expenses" of the deceased, wherein the accident occurred on 07.06.1999. Whereas in this case, the accident occurred on 27.09.2009. Therefore, the sum of Rs.3500/- taken by the Tribunal as monthly income without deduction should be taken as monthly income after deduction. Hence, the monthly income of the deceased determined by the Tribunal is justified. As per the age of the deceased, namely, 44 years, multiplier 15 was applied and the Tribunal rightly granted Rs.6,30,000/- (Rs.3500 x 12 x 15) towards "Loss of Income".

5. As far as other amounts are concerned, though the 1st respondent, being the husband of the deceased, is entitled to a sum of Rs.1 lakh towards "Loss of Consortium", as per the judgment of the Honourable Apex Court rendered in Rajesh and Others V. Rajbir Singh and Others reported in 2013 3 CTC 883, taking into consideration the fact that the Tribunal awarded Rs.6,30,000/- towards "Loss of Income", the sum of Rs. 40,000/- awarded towards "Loss of Consortium" as well as "Loss of love and affection" is confirmed. The sum of Rs.10,000/- awarded towards "Funeral Expenses" is also confirmed. Hence, the sum of Rs.6,80,000/- awarded by the Tribunal along with interest @ 9% per annum is reasonable and the same is confirmed.

6. The appellant is directed to deposit the entire award amount, along with interest and costs, if not already deposited, before the Tribunal, on or before 26th April, 2015 failing which the Chairman cum Managing Director as well as Financial Advisor cum Chief Accounts Officer shall appear before this Court on 27th April, 2015. On such deposit being made, the claimants are permitted to withdraw their respective shares as per the apportionment of the Tribunal.

7. In the result, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. No costs. Connected M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
 (Sub Court), Hosur.

2. The Chairman -cum- Manaing Director,
Tamil Nadu State Transport Corporation Limited
Dharmapuri.

+ 1 cc to Mr.D. Venkatachalam, Advocate SR.12522
+ 1 cc to Mr.P.A. Sudeshkumar, Advocate SR.12555

Copy to: The Section Officer,
         Judicial Section, High Court, Madras.

UG(CO)
EU 13.04.2015

C.M.A. No. 297 of 2015