IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2015

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THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.346 of 2007
and
Cross Objection No.14 of 2009

Tamil Nadu State Transport Corporation,
Coimbatore Division II,
Erode,
Rep. by its Managing Director. ...Appellant in CMA.No.346 of 2007 and first respondent in Cross Objection No.14 of 2009

Vs.

1.Annammal @ Annakodi
2.C.Bharathi
3.C.Vidhya
4.Velayammal ... Respondents 1 to 4 in CMA.No.346 of 2007 and Appellants in Cross Objection No.14 of 2009

5.Sengoda Gounder(died)
6.T.Anand

7. M/s. National Insurance Co., Ltd., Mettur Road, Erode-II. ... Respondents 6 and 7 in both appeals

Prayer in C.M.A.No.346 of 2007: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act,1988, against the decree and judgment dated 21.02.2006 made in M.C.O.P.No.216 of 2005 on the file of Motor Accident Claims Tribunal, (Principal District Judge), Erode.

Prayer in Cross Objection No.14 of 2009: Cross Objection filed under Order 41 Rule 22 CPC., against the decree and judgment dated 21.02.2006 made in M.C.O.P.No.216 of 2005 on the file of Motor Accident Claims Tribunal, (Principal District Judge), Erode.

For Appellant : Mr.S.V.Vasanthakumar in CMA.No.346 of 2007 and first respondent in Cross Objection No.14/2009

For Respondents : Mr.Prabhakar for Mr.N.Manoharan respondents 1 to 4 in CMA. No.346 of 2007 and Cross Objectors.

COMMON JUDGMENT

C.M.A.No.346 of 2007 has been preferred by the Transport Corporation, against the award of Rs.9,74,227/- as compensation, for the death of one Chinnasamy, aged about 55 years, an agriculturist and a business man, allegedly earning Rs.25,000/- per month, in the accident, which occurred on 28.11.2004. Similarly, the claimants also filed a Cross Objection No.14 of 2009 for enhancement compensation.

2. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents/claimants. The only question to be decided is quantum.

3. The learned counsel appearing for the appellant would submit that the Tribunal has fixed the monthly income at Rs.10,000/- and it is on the higher side. However, a perusal of the records would show that the deceased was doing agricultural operations and also running a cycle shop. In this regard, Exs.P25 to 27, P-41 to 47 were marked by the claimants. Based on those documents and also bank statements, three different statement maintained by the deceased, the Tribunal rightly determined Rs.25,000/- as monthly income. A sum of Rs.30,000/- would have been contributed as annual contribution to the deceased from the income derived from the landed property. From the real estate business and also cycle shop business and based on three different bank pass books and bank statements maintained by the deceased, the monthly income was from that source was determined at Rs.7,500/- and annual income determined at Rs.90,000/-. Therefore, the total annual income fixed at Rs.1,20,000/- is correct. 1/3rd deduction was made towards personal expenses and the loss of income per annum was determined at Rs.80,000/-. The deceased was aged about 55 years and the Tribunal was right in applying multiplier 11 and also right in determining the loss of income at Rs.8,80,000/-.

4. Rs.10,000/- awarded towards funeral expenses is too low and the same is enhanced to Rs.15,000/-. Medical expenses are concerned, based on Exs.P9 to Ex.A14, the Tribunal rightly awarded a sum of Rs.79,227/- towards medical expenses. However, Rs.5000/- awarded

towards loss of consortium to the first respondent is too low and the same is enhanced to Rs.25,000/-. Since no amount was awarded towards loss of love and affection to the respondents 2 and 3, a sum of Rs.30,000/- is awarded towards loss of love and affection in toto. The amount of Rs.9,74,227/- awarded by the Tribunal is enhanced to Rs.10,29,222/- rounded to Rs.10,30,000/- along with interest at the rate of 7.5 p.a. and costs. The award amount is required to be shared as per the ratio determined by the Tribunal.

5. The appeal filed by the Transport Corporation is dismissed. No costs. The Cross Objection filed by the respondents/claimants is allowed by enhancing the compensation from Rs.9,74,227/- to Rs.10,30,000/-. No costs.

6. The appellant Transport Corporation is directed to deposit the entire amount along with interest with costs as per the modified award passed by this Court, after deducting the amount already been deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondents/claimants are directed to withdraw the entire amount as per the ratio fixed by the Tribunal within one week.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
(The Principal District Judge),
Erode.

Copy to: The Section Officer, (Records if any)
VR Section, High Court, Madras.

+ 1 cc to Mr.S.V.Vasanthakumar, Advocate SR.11087
+ 2 ccs to Mr.N.Manoharan, Advocate SR.10781 & 10782

LRS(CO)
EU 13.04.201

C.M.A.NO.346 of 2007