IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM:

THE HON'BLE Mr.JUSTICE S.VAIDYANATHAN

C.M.A.No.1081 of 2016
and C.M.P.No.8057 of 2016

The Managing Director,
State Express Transport
Corporation,
Chennai. ..Appellant/4th respondent

Vs.

1.N.Dhavamani
2.Visalakshi
3.Minor N.Vijayraj
4.Minor N.Vinodhini
5.Minor N.Vinodraj
[Respondents 3 to 5 are rep by their
natural guardian & mother,
1st respondent] ..Respondent/Petitioners

6.M.Vijayalakshmi

7.The New India Insurance Co. Ltd.,
1890, EVR Periyar Salai,
Chennai-84.

8.The Managing Director [given up]
Tamil Nadu State Transport
Corporation,
Villupuram. ..Respondents/Respondents 1 to 3

Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 12.04.2013 made in M.C.O.P.No.97 of 2008 on the file of the Motor Accidents Claims Tribunal [Chief Judicial Magistrate Court], Villupuram.

For Appellant : Mr.P.Paramasiva Doss

J U D G M E N T

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the judgment and decree dated 12.04.2013 made in M.C.O.P.No.97 of 2008 on the file of the Motor Accidents Claims Tribunal [Chief Judicial Magistrate Court], Villupuram.

2. Claiming compensation to the tune of Rs.15,00,000/-, on account of the death of one Nagaraj, who met with an accident that took place on 20.10.2006, the claimants, who are the wife, mother and children of the deceased approached the Tribunal. The Tribunal, on analysing the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the appellant/Transport Corporation Bus and awarded a sum of Rs.5,48,400/- with interest @ 7.5% p.a. Details of the award are as follows:

Sl. No.	Head	Amount granted by the Tribunal
1	Loss of income	Rs.5,18,400/-
2	Loss of consortium	Rs. 5,000/-
3	Love and affection	Rs. 20,000/-
4	Funeral Expenses	Rs. 5,000/-
	Total	Rs.5,48,400/-

3. The learned counsel for the appellant vehemently contended that the method of compensation arrived at by the Tribunal is erroneous and sought for allowing of the Civil Miscellaneous Appeal.

4. Heard the submissions made by the learned counsel for the appellant and perused the materials available on record.

5. According to the claimants, at the time of accident, the deceased was aged 30 years and was working as a Maistry, earning a sum of Rs.8,000/- per month. However, the Tribunal, taking note of the fact that the monthly income of the deceased would be Rs.3,600/- per month, adopted multiplier of '18' and after deducting 1/3rd towards his personal expenses, granted a sum of Rs.5,18,400/- towards loss of income.

6. The Apex Court, in the case of Syed Sadiq Vs. Divisional Manager, United India Insurance Co. Ltd., 2014 (1) TN MAC 459 (SC), in respect of a vegetable vendor, who sustained injuries in an accident which occurred in 2008, determined Rs.6500/- as the monthly income. The accident in this case took place on 20.10.2006. Taking note of the Syed's case referred to above, fixing the income of the deceased at Rs.3,600/- cannot be said to be excessive. Further, a glance of the award would make it clear that the compensation awarded particularly under the head "loss of consortium" is very meagre. Hence, the award of the Tribunal in granting compensation to the tune of Rs.5,48,400/- cannot be said to be erroneous. Therefore, this Court is not inclined to interfere with the compensation awarded by the Tribunal.

7. In the above circumstances, finding no merit, by confirming the award of the Tribunal, the Civil Miscellaneous Appeal is dismissed. The rate of interest granted by the Tribunal is also confirmed. The appellant/ Transport Corporation Company is directed to deposit the entire award amount together with interest to the credit of M.C.O.P.No.97 of 2008 on the file of the Motor Accidents Claims Tribunal [Chief Judicial Magistrate], Villupuram, if not already deposited, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the major claimants are entitled to withdraw their respective shares as apportioned by the Tribunal on filing necessary applications before the Tribunal. The share of the minor claimants shall be deposited in a Fixed Deposit Scheme in any one of the Nationalised Banks initially for a period of three years, renewable thereafter periodically. The interest accrued on such deposit shall be withdrawn by the natural guardian once in three months, till the minors attain majority. No costs. Consequently, connected Miscellaneous Petition is closed.

8. The Trial Court is expected to follow the procedures contemplated in the order dated 11.03.2016 passed by a Division Bench of this Court in C.M.A.No.428 of 2016, scrupulously.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

gya/aeb

To:

The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Villupuram.

C.M.A.No.1081 of 2016
and
C.M.P.No.8057 of 2016

PPA(CO)
EU 14.11.16