

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2016

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

C.M.A.No.1084 of 2016

The Managing Director
State Express Transport
Corporation Limited
Thiruvalluvar House
Pallavan Salai
Chennai 600 002

... Appellant

Vs.

1. Sivasantha
2. Sivachandran
3. Sugunesh
4. Sivaprakash
5. Minor Kiruba
6. Gobi Trans and Clearing Company
Chennai
7. ICICI Lombard General Insurance
Company Limited, Chennai

... Respondents

Civil Miscellaneous Appeal under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 10-11-2011 made in M.C.O.P.No.182 of 2011 on the file of Motor Accidents Claims Tribunal, (Fast Track Court), Kallakurichi (M.C.O.P.No.408 of 2008 on the file of the Sub-Court, Kallakurichi).

For appellant :: Mr. K.J. Sivakumar

For respondents :: No appearance

ORDER

The Transport Corporation has filed the appeal aggrieved against the quantum of the award of Rs.9,18,500/- (Rupees Nine lakhs Eighteen thousand Five hundred only) granted by the Tribunal to the wife and children of the deceased, who met with a fatal accident on 22-11-2008.

2. The case of the appellant is that although the claimants marked the salary certificate of the deceased to prove the income of the deceased, the author of the document has not been examined and hence without proving the document by adducing evidence, the Tribunal has erred in fixing the income of the deceased as Rs.8493/- (Rupees Eight thousand four hundred and ninety three only).

3. This Court on a careful consideration of the facts of the case is of the considered view that the Tribunal has not taken into account the future prospects of the deceased, which, if taken into account, 30% of the deceased's income has to be added towards future prospects as per the judgment reported in 2013 (2) TNMAC 55 (Rajesh Vs. Rajbir Singh). Further, one third deduction was made towards personal and living expenses of the deceased and the proper deduction would be one-fourth as the number of dependents are five in number as per *Sarla Verma case* reported in 2009 (2) TNMAC 1. In the above circumstances, the income as fixed by the Tribunal cannot be held to be excessive and the compensation awarded on the head of loss of dependency cannot be found fault with.

4. In the result,

- (i) the civil miscellaneous appeal is dismissed.
- (ii) There is no modification in the interest granted by the Tribunal.

glp

S. VAIDYANATHAN,J.

(iii) Eight weeks' time is granted to deposit the entire award amount as ordered by the Tribunal, less the amount, if any, already deposited to the credit of MCOP No.182 of 2011 on the file of the Motor Accidents Claims Tribunal, Fast Track Court, Kallakurichi.

(iv) On such deposit being made, the claimants are permitted to withdraw the award amount as apportioned by the Tribunal.

However, there will be no order as to costs. The connected M.P.No.8060 of 2016 is also dismissed.

29-04-2016

glp

To

Tamil Nadu State Transport
Corporation (Villupuram) Limited
Kanchipuram Region
Kanchipuram – 631 501

C.M.A.No.1084 of 2016