

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2016

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

C.M.A.No.1098 of 2016

The Branch Manager
Tamil Nadu State Transport
Corporation Limited
Periyar Milaguparai
Trichy -1

... Appellant

Vs.

1. J.Minnalkhodi

2. N.S. Jayapal

... Respondents

Civil Miscellaneous Appeal under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 31-08-2012 made in M.C.O.P.No.25 of 2011 on the file of Motor Accidents Claims Tribunal, Principal District Judge, Perambalur.

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.6,68,000/- (Rupees Six Lakhs and Sixty Eight thousand only) granted by the Tribunal to the mother and father of the deceased, who met with a fatal accident on 11-12-2010.

2. The case of the appellant is that the Tribunal has erred in calculating the loss of dependency by making one third deduction towards the head of personal and living expenses of the deceased and the same should be 50% as per *Sarla Verma case* reported in 2009 (2) TNMAC 1.

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, in the absence of proof of income of the deceased a sum of Rs.6500/-should be fixed as monthly income as per *Syed Sadiq Vs. Deputy Manager* (2014(1)TNMAC 459). In such view of the matter, the compensation fixed by the Tribunal is not interfered with.

4. In the result,

(i) the civil miscellaneous appeal is dismissed.

(ii) There is no modification in the interest granted by the Tribunal.

(iii) Eight weeks' time is granted to deposit the entire award amount as ordered by the Tribunal, less the amount, if any, already deposited.

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

glp

S. VAIDYANATHAN,J.

However, there will be no order as to costs. The connected C.M.P.No.8198 of 2016 is also dismissed.

29-04-2016

glp

To

The Branch Manager
Tamil Nadu State Transport
Corporation Limited
Periyar Milaguparai
Trichy

C.M.A.No.1098 of 2016

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