

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2263 of 2016

The Managing Director,  
Tamil Nadu State Transport Corporation (Dharmapuri)  
No.12, Ramakrishna Road,  
Salem.

.. Appellant /Respondent

Versus

1.Dhanaselvi  
2.Minor Gokila  
3.Minor Sowmiya  
Minors represented by their next  
friend and mother Sreemathi Dhanaselvi  
4.Chinnathayee  
5.Mari.

.. Respondents/Petitioners

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgement and decree dated 17.06.2013 made in M.C.O.P.No.508 of 2012 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem.

For Appellant : Mr.D.Venkatachalam

O R D E R

The Managing Director of Tamil Nadu State Transport Corporation, (Dharmapuri) Salem, challenging the quantum of compensation of Rs.15,14,488/- awarded as against the claim amount of Rs.25,00,000/- for the death of a Veterinary Inspector in the accident at the age of 42 years while serving in the State Government Department, has filed the appeal, on the ground that the learned Tribunal while fixing the quantum of compensation has wrongly taken Rs.13,300/- as monthly salary of the deceased without even taking any evidence to support the monthly salary.

2. He would further submit that the salary slip of the deceased was marked as Ex.P11. The author, who has issued the salary slip was not examined and hence, the Tribunal ought not to have fixed Rs.13,300/- as monthly salary of the deceased.

3. It is seen that while the deceased was a Veterinary Inspector, serving in the State Government Department. The learned Tribunal after considering the order of appointment and pay certificate marked as Ex.P5 has fixed Rs.13,300/- as monthly income, it has not taken any additional income towards his future prospects. If the ratio laid down by the Apex Court, in Sarla Verma and others vs. Delhi Transport Corporation and others reported in 2009 (2) TN MAC 1 SC is followed, 30% of his actual salary should have been added towards his monthly income towards future prospects which has not been done. Therefore, this Court is not able to find any error in the impugned award in fixing Rs.13,300/- as monthly income of the deceased.

4. It is also seen that there are five claimants namely, three children including two minors and parents namely the father and mother of the deceased. While so, the learned Tribunal should have made 1/4 deduction towards personal expenses, as per the ratio laid down by the Apex Court in the case of Sarala Verma. In the present case, for the best reason known to the Tribunal, it has deducted 1/3 towards personal expenses. Therefore, this court is not inclined to entertain the appeal. Hence, the appeal fails and the same is dismissed. Consequently the connected CMP.No.15969 of 2016 is also dismissed.

5. It is represented by the learned counsel appearing for the appellant that the entire award amount along with interest at the rate of 7.5% per annum has been deposited. Therefore, the claimants are permitted to withdraw the entire award amount deposited along with interest before the Tribunal, within a period of four weeks, from the date of the receipt of a copy of the order.

-s/d-

Assistant Registrar

True Copy

Sub-Assistatant Registrar

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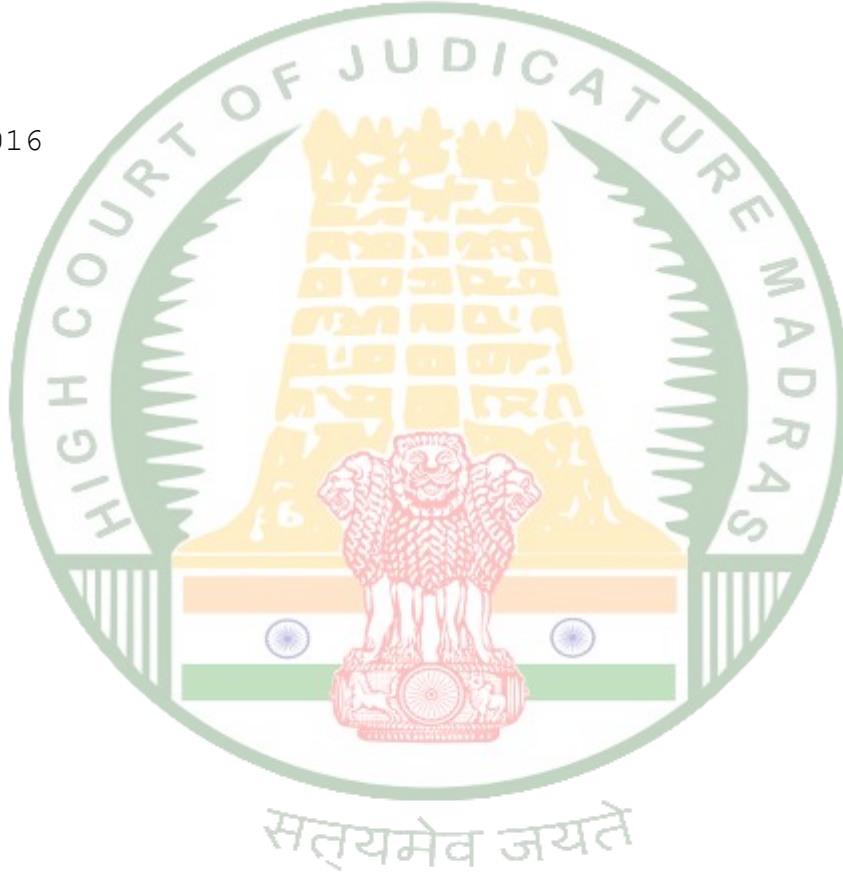
To

The Special District Judge,  
Motor Accident Claims Tribunal  
Salem

+1 cc to Mr.D.Venkatachalam, Advocate vide sr 56766

C.M.A.No.2263 of 2016

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