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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2016

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.806 of 2016
and C.M.P.No.6457 of 2016

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Railway Station New Road
Kumbakonam 612 001

... Appellant/Respondent

vs.

***1.R.Thangamani**
2.T.Malarkodi

... Respondents/respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 07.10.2015 passed in M.C.O.P.No.980 of 2009 on the file of the Motor Accidents Claims Tribunal, I Additional District Judge, Cuddalore.

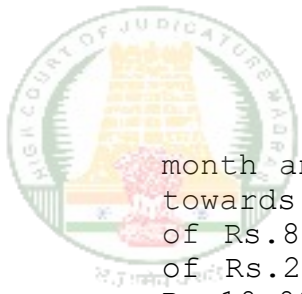
For Appellant : Mr.D.Venkatachalam

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal challenging the Judgment and decree dated 07.10.2015 passed in M.C.O.P.No.980 of 2009 on the file of the Motor Accidents Claims Tribunal, I Additional District Judge, Cuddalore.

2. Heard the learned counsel for the appellant and perused the materials available on record.

3. The claimants, who are the parents of the deceased Suresh, aged 25 years, claiming to be the manufacturer of cement slab, who met with a fatal accident on 04.11.2008, approached the Tribunal, claiming compensation to the tune of Rs.25,00,000/- on the basis of the monthly income of the deceased at Rs.20,000/- per month. The Tribunal, taking note of the factual aspect, fixed the monthly income at Rs.6,000/- per



month and by adopting multiplier method and after deducting 1/3rd towards personal expenses, awarded the compensation to the tune of Rs.8,64,000/- towards loss of income, besides awarding a sum of Rs.20,000/- towards loss of love and affection and a sum of Rs.10,000/- towards funeral expenses and ambulance expenses, totalling a sum of Rs.8,94,000/- together with interest at 7.5% p.a/ Aggrieved over the same, the present Civil Miscellaneous Appeal is filed by the Transport Corporation.

4. According to the learned counsel for the appellant/Corporation, the driver of the Corporation Bus, who is said to have caused the death and responsible for the accident was acquitted in the criminal case in C.C.No.211 of 2010 on the file of the Judicial Magistrate, Sirkazhi and the Judgment was marked as Ex.R.1. However, the Tribunal failed to note the evidence of R.W.1 driver. Further, a contention was made that the accident has taken place only due to the rash and negligent driving of the rider of the motorcycle. However, a cursory glance of the award of the Tribunal would make it clear that there was an accident caused by the Corporation bus in which the deceased sustained injuries and died on 04.11.2008. That apart, in the absence of proof of income, the Tribunal has taken the monthly income at Rs.6,000/- based on "Syed Sadiq and others versus Divisional Manager, United India Insurance Co.Ltd." reported in 2014 ACJ 627 and also applied 1/3rd deduction towards living expenses, even though based on Sarla Verma's case, deduction has got to be made towards personal and living expenses at 50% of the deceased income, as the deceased was a bachelor. That apart, the Tribunal has not granted any amount towards future prospects. Further, though there is a contention that the driver of the Corporation bus was acquitted, however the Tribunal failed to take note of the same. In the criminal case, the driver of the Corporation Bus was acquitted only on the basis that the prosecution has failed to prove the case beyond reasonable doubt and that it has no impact on the proceedings of the Tribunal and there was enough evidence to corroborate the evidence of the Tribunal. Hence, taking note of the totality of the circumstances, I find no reason to interfere with the award of the Tribunal.

5. 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 MCOP No.980 of 2009 on the file of the Motor Accident Claims Tribunal (I Additional District Judge), Cuddalore, if not already deposited, within a period of eight weeks from the date of receipt of a copy of this order and on such deposit being made, the claimants



are entitled to withdraw their respective shares as apportioned by the Tribunal on filing necessary applications before the Tribunal. There will be no order as to costs in this appeal. Connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS VI)

Dated: 10.06.2016

*Corrected as per Order dated 31.01.2018

Sd/-

Assistant Registrar(CCC)

Dated: 16.02.2018

//True copy//

Sub Assistant Registrar

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To

I Additional District Judge,
The Motor Accidents Claims Tribunal
Cuddalore

To be Substituted to this
Order already despatched
on 28.06.2016

+1cc to Mr.D.Venkatachalam, Advocate SR.No.23645

C.M.A.No.806 of 2016

KK(CO)

AA(13/06/2016)

GN(19/02/2018)