

C.M.P.No.16501 OF 2016
IN
C.M.A.SR.No.51994 OF 2016

T.RAJA,J.

The General Manager, Tamil Nadu State Transport Corporation, Kumbakonam Town, Thanjavur District, being aggrieved by the impugned award dated 13.03.2014 passed by the District Judge, Motor Accidents Claims Tribunal, Nagapattinam in M.C.O.P.No.58 of 2013, awarding a sum of Rs.10,92,000/- as compensation to the claimants as against the claim of Rs.15,00,000/- for the death of one Velayutham, has come up with this petition seeking to condone the delay of 767 days in filing the above appeal.

2. Learned counsel for the Transport Corporation contended that the Tribunal erred in applying the multiplier of '17' for the age of the deceased, as the correct multiplier to be applied for the deceased in the age group of 31 - 35 is '16'. According to him, by applying wrong multiplier, the compensation awarded has been zoomed.

3. It is his further contention that the Tribunal has also erred in awarding Rs.4,00,000/- towards Medical Bills, as the amount has not been corroborated by Bills produced vide Ex.P7. According to him, verification of records reveals that Medical Bills submitted vide Ex.P7 amounts only to a sum of Rs.2,30,943/-.

4. But, this Court is not able to find any justification even on merits. The reason is that when the deceased aged about 35 years died in an accident caused by the rash and negligent driving of the driver of the offending vehicle belonging to the appellant Transport Corporation, a prima facie perusal of the finding of the Court below shows that the deceased was a coconut merchant, earning a sum of Rs.30,000/- per month.

5. Since the claimants have not filed any proof in support of the income of the deceased, the Tribunal fixed the notional income of the deceased at Rs.4,500/- per month. As per the ratio laid down in **Rajesh vs. Rajbir Singh [2013 (9) SCC 54]** and **Santosh Devi vs. National**

Insurance Co. Ltd. [2012 (6) SCC 421], 50% of the actual income of the deceased ought to have been added towards future prospects of the deceased and that has not been done in this case.

6. Therefore, the arguments advanced by the learned counsel for the Transport Corporation that wrong multiplier has been adopted instead of '16' and excess amount has been awarded towards Medical expenses, cannot be entertained.

7. Moreover, the reason stated by the Transport Corporation for the delay in filing the appeal, that due to lack of communication from the counsel who appeared for the Transport Corporation before the Tribunal, they were not able to file a copy application immediately and get the copy of the judgment, cannot be accepted, as it is stated in the affidavit filed in support of this petition that they made a copy application on 25.03.2015 for the decree passed on 13.03.2014 and a copy of the decree was delivered to them on 07.04.2015. Even accepting the same as true, nothing prevented the Transport Corporation to prefer an appeal at least in May 2015.

8. Hence, it is quite clear that the Transport Corporation, with an intention to avoid payment of compensation to the claimants, has dragged on the matter, and finally approached this Court with a prayer to condone the huge delay of 767 days. In view of the above, this Court finds no sufficient reason to condone the delay and this petition is dismissed.

9. However, the Transport Corporation is directed to deposit the entire award amount along with accrued interest to the credit of M.C.O.P.No.58 of 2013 on the file of the Motor Accidents Claims Tribunal, District Court, Nagapattinam within a period of six (6) weeks from the date of receipt of a copy of this order, failing which, the Transport Corporation will have to deposit the accrued interest at the rate of 12% per annum. On deposit of the entire award amount, it is open to the claimants to withdraw the same.

T.RAJA,J.

Aeb

C.M.P.No.16501 OF 2016
IN
C.M.A.SR.No.51994 OF 2016

24.10.2016

<http://www.judis.nic.in>