



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CMA(MD)No.1041 of 2014

and

M.P(MD)No.2 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation,
Karaikudi. ... Appellant / 1st Respondent

vs.

1)Revathi
2)Minor Pradeep
3)Minor Seethalakshmi Respondents 1 to 3 / Petitioners 1 to 3

(The minor respondents 2 and 3 are represented their
mother and guardian the 1st respondent)

4)Mani
5)Nagalakshmi @ Nagammal
6)Chitra
7)Dhanapal
8)Sathi ... Respondents 4 to 8 / Respondents 2 to 6

Appeal filed under Section 173 of the Motor Vehicles Act,
against the judgment and decree dated 07.01.2014 passed in
MCOP.No.174 of 2012 on the file of the Motor Accident Claims
Tribunal/Principal District Court, Pudukkottai.

For Appellant : Mr.P.Prabhakaran
For R1 : Mr.G.Mathavan
For RR2 to 8 : No appearance

JUDGMENT

It is the case of unfortunate case of fatal accident took
place on 05.01.2012 around 01.45 p.m on Trichy-Pudukkottai road
near Amma Chathiram. The legal heirs of the deceased filed an
application before the Motor Accident Claims Tribunal/Principal
District Court, Pudukkottai, and the Tribunal considering the
facts and circumstances of the case, awarded Rs.9,00,000/- as
total compensation with interest at 7.5% per annum. The present
appeal is filed by the appellant/insurance company, mainly
challenging the quantum of compensation awarded by the Tribunal.



2.Learned counsel for the petitioner contended that the monthly income was erroneously fixed by the Tribunal as Rs.5,000/- without any proof. This apart, the deceased who was the rider of the two wheeler, was also responsible for the accident. Such being the case, the deceased ought to have been treated as tort-feasor and the appellant ought to have been exonerated from the liability.

3.The fixation of Rs.5,000/- as monthly income of the deceased cannot be construed as excessive, in view of the fact that the notional income of Rs.5,000/- is said to be fair and reasonable. In view of the facts and circumstances of the case, this Court is not inclined to consider the grounds of appeal and accordingly, the impugned award is confirmed.

4.The appellant is directed to deposit the entire award amount with proportionate accrued interest and costs, to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this judgment, if not deposited already and thereafter, the 1st respondent/claimant, is permitted to withdraw her share with interest, through RTGS, by filing necessary applications before the Tribunal. The shares of the respondents 2 and 3/minor claimants shall be deposited in a Nationalised Bank in Fixed Deposit, till they attain majority and on attaining majority, it is for them to approach the Tribunal for disbursement of their shares, by making necessary applications.

In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, M.P(MD)No.2 of 2014 is closed.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub Assistant Registrar

nbi

To

The Principal District Court,
Motor Accident Claims Tribunal, Pudukkottai.

Copy to:

The Section Officer / Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court, Madurai

+1cc to Mr.P.Prabhakaran Advocate Sr.No. 78385

JAM/23.01.2017/GSV-SV 2p-4c

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CMA (MD) No.1041 of 2014
01.02.2016