



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.165 of 2016

and

C.M.P.(MD)No.2577 of 2016

State Express Transport Corporation Ltd.,
Represented by its Managing Director,
5, Pallavan Salai,
Chennai-2.

.. Appellant/1st Respondent

Vs.

1.B.Ambika
2.Minor Iswarya Raja
3.Minor Jayasakthi
4.Minor Calvin
5.Minor Livija
(The minor Respondents 2 to 5 are represented
by their mother, next friend and
1st respondent B.Ambika)

6.P.Jayakumar
7.Muthulakshmi
8.J.Aripunjothi .. Respondents 1 to 8/Petitioners
9.B.Ayyappan

10.Royal Sundaram Alianze Insurance Company Ltd.,
Represented by its Branch Manager,
Sundaram Towers,
45 and 46 Whites Road,
Chennai-600 014. .. Respondents 9&10/Respondents 2&3

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree made in M.C.O.P.No.1391 of 2013 dated 07.04.2014, on the file of the Motor Accident Claims Tribunal / Special District Court, Tiruchirappalli.

For Appellant : Mr.P.Prabhakaran

<https://hcservices.ecourts.gov.in/hcse/Pages/For Respondents> : Mr.N.Sudhagar Nagaraj (for R1 to R8)

JUDGMENT

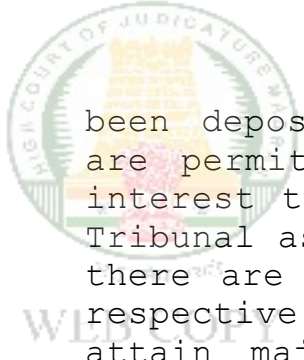
The appellant/Transport Corporation has filed the present C.M.A(MD)No.165 of 2016, challenging the award passed in MCOP.No.1391 of 2013, dated 07.04.2014, on the file of the Motor Accident Claims Tribunal / Special District Court, Tiruchirappalli.

2.It is a case of fatal accident caused on account of an accident took place on 18.05.2010 around 4.00 a.m. near Konalai in Tiruchy-Chennai National Highway. The legal heirs of the deceased filed an application seeking compensation before the Motor Accident Claims Tribunal / Special District Court, Tiruchirappalli in MCOP.No.1391 of 2013. Considering the facts and circumstances of the case, the Tribunal awarded Rs.16,18,800/- as total compensation. Challenging the same, the appellant/Transport Corporation has preferred the appeal on the ground that the quantum of compensation awarded by the Tribunal was excessive, in view of the fact that the deceased was a lorry driver and the fixation of monthly income of Rs.7,200/- was not in order and in fact it is an excessive income fixed by the Tribunal. The Tribunal has not properly deducted the personal expenses, resulted granting of excess compensation.

3.The learned counsel appearing for the respondent though objected an appeal fairly conceded that Rs.6,800/- monthly income will be a fair fixation and if Rs.6,800/- is fixed as a monthly income of the deceased, the quantum of compensation will be in accordance with well established procedure. Considering the facts and circumstances and based on the fair submission made by both the learned counsel appearing for the appellant as well as the respondent, this Court is inclined to fix the monthly income of the deceased as Rs.6,800/- instead of Rs.7,200/-. Accordingly, the quantum of compensation is revised as below:

$$\text{Rs.6,800} \times 12 \times 17 = 13,87,200/-$$

along with other heads of compensation, the total compensation is Rs.15,37,200/-. Accordingly, this Court is inclined to reduced the total compensation of Rs.16,18,800/- awarded by the Tribunal to Rs.15,37,200/-. In all other respects, the findings of the Motor Accident Claims Tribunal/Special District Court, Tiruchirappalli, dated 07.04.2014, is confirmed and accordingly the Civil Miscellaneous Appeal (MD)No.165 of 2016 is partly allowed by reducing the compensation from Rs.16,18,800/- to Rs.15,37,200/-.



been deposited and thereafter, the respondents 1 to 8/claimants are permitted to withdraw the entire award amount with accrued interest through RTGS, by filing necessary application before the Tribunal as per the ratio fixed by the Tribunal. In so far as, if there are any minors, the Tribunal is directed to deposit their respective portion in any one of the Nationalised Bank, till they attain majority. The guardian of the minor is permitted to withdraw the interest of the minor share once in three months directly from the bank. The appellant/Transport Corporation is permitted to withdraw the balance award amount with proportionate accrued interest by filing necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub-Assistant Registrar

To

The Motor Accident Claims Tribunal/
Special District Court, Tiruchirappalli.

Copy to:-

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

+One cc to Mr.N.Sudhagar Nagaraj, Advocate, SR.No.73618
+One cc to Mr.P.Prabhakaran, Advocate, SR.No.73472

vsa
RL/5C/3P/MR/5.4.2017

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