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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CMA(MD)No.498 of 2014

and

M.P(MD)No.2 of 2014

Tamil Nadu State Transport Corporation,
Manakiri Road,
Karaikudi through its
Managing Director.

... Appellant/Respondent

vs.

- 1)M.Shanthi
- 2)Minor M.Udhayabalan
- 3)Minor M.Devisri
- 4)Minor M.Sripathi

(The respondents 2 to 4 are minors represented by their mother and guardian the 1st respondent Shanthi)

... Respondents/Petitioners

Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 13.08.2013 passed in MCOP.No.287 of 2011 on the file of the Motor Accident Claims Tribunal/District Court, Sivagangai.

For Appellant : Mr.P.Prabhakaran

For Respondents : No appearance

JUDGMENT

It is the case of unfortunate fatal accident took place on 09.11.2011 around 08.25 hours on Sivagangai-Thiruppathur main road. The legal heirs of the deceased filed an application before the Motor Accident Claims Tribunal/District Court, Sivagangai, and the Tribunal considering the facts and circumstances of the case, awarded Rs.12,50,000/- as total compensation with interest at 7.5% per annum. The present appeal is filed by the appellant/transport services company, challenging the award passed by the Tribunal, on the ground that the quantum of compensation awarded by the Tribunal is excessive and the Tribunal has not considered the monthly income



of the deceased properly.

2.The main ground raised in this appeal is that the Tribunal has committed an error in awarding Rs.50,000/- towards loss of consortium and fixation of monthly income of the deceased as Rs.8,500/- is also excessive.

3.Learned counsel for the appellant states that the deceased himself had committed the act of negligence, by wrongly driving the two wheeler and in fact, directly dashed with the bus belonging to the appellant corporation and hence, negligence ought to have been fixed on the part of the deceased person.

4.The fact remains that the deceased was aged 42 years at the time of death and the claimants are wife and three minor children. Such being the family of the deceased, this Court is not inclined to reconsider the award of compensation, merely on technical grounds and the endeavour of this Court is to see that just compensation is awarded to the families of the deceased, who left the families without any sources of income and in the present case, the deceased was the sole breadwinner of the family. Therefore, this Court is not inclined to interfere with the impugned award and accordingly, the impugned award is confirmed.

5.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 shares with proportionate interest, through RTGS, by filing necessary application before the Tribunal. The shares of the respondents 2 to 4/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 (CS-II)

/True copy/

Sub Assistant Registrar/



To

The Motor Accident Claims Tribunal/District Court,
Sivagangai.

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Copy To :-

The record keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai Madras High Court
madurai.

+1cc to Mr. P.Prabhakaran, Advocate, SR.NO.74499

nbi

TE/GSV-PM/06.01.2017/3P-4C

CMA (MD) No.498 of 2014
30.11.2016