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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2016

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THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

C.M.A. (MD) .No.677 of 2016

and

C.M.P. (MD) No.7101 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation
Madurai Division Ltd.,
Bye-Pass Road, Madurai.

... Appellant/2nd Respondent

Vs.

1. Muthukarpagam
2. Minor Priyanga
3. Minor Vimalram

(The minor respondents 2 & 3 are represented
through their guardian, next friend and
their mother Muthukarpagam) ... Respondents 1 to 3/Petitioners

4. Lakshmanan ... 4th Respondent/1st respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow this appeal and to set aside the award and decree made in M.C.O.P.No.185 of 2011, dated 26.09.2012 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Tenkasi.

For Appellant : Mr.P.Prabhakaran

JUDGMENT

This appeal is directed against the award passed by the Motor Accidents Claims Tribunal, Principal Subordinate Court, Tenkasi, in M.C.O.P.No.185 of 2011, dated 26.09.2012.

2. Respondent Nos.1 to 3 filed a petition in M.C.O.P.No.185 of 2011 claiming compensation of Rs.25,00,000/- for the death of Lakshmanan, aged about 38 years, alleging that on 31.12.2010, when the deceased Lakshmanan was travelling as a passenger in a bus bearing Registration No.TN 67-N-0279, the driver of the bus drove it in a high speed and suddenly turned the bus. In that process, the deceased fell down and succumbed to the injuries on 03.01.2011.

3. The appellant contested the petition stating that the deceased was found drunk and despite instructions, he was travelling in the foot board and therefore, the Transport Corporation is not liable to pay compensation.

4. The Tribunal, while accepting the evidence of P.Ws.1 and 2 and <https://hcservices.ecourts.gov.in/hcservices/> Information Report, came to the conclusion that the driver of the bus was responsible for the accident. The Tribunal further held that the defence taken by the Transport Corporation was not established.



5. P.W.1, namely, the first claimant has given evidence stating that her husband was 34 years old on the date of the accident and he was working in Tasmac and thereby earning Rs.9,000/- per month. Ex.P.5 Transfer Certificate of the deceased would show that he born on 12.05.1972 and he was 38 years old on the date of accident. The Tribunal assessed the income of the deceased at Rs.4,500/- per month and after deducting Rs.1,500/- towards his personal expenses held that the deceased contributed Rs.3,000/- to his family.

6. The Tribunal by applying multiplier of '16' awarded Rs.5,76,000/- towards loss of dependency; Rs.1,00,000/- towards loss of consortium; Rs.30,000/- towards loss of love and affection; Rs.10,000/- towards funeral expenses; Rs.5,000/- towards transport expenses; Rs.14,696/- towards medical expenses and Rs.14,696/- towards attendant charges. The Tribunal has totally awarded Rs.7,40,696/-.

7. The first claimant is 27 years old and her children/claimant Nos.2 and 3 are 6 and 4 years old. Taking into account the age of the claimants, I am of the view, the award passed by the Tribunal is fair and reasonable, warranting no interference of this Court.

8. **In fine**, the award passed by the Tribunal dated 26.09.2012 is confirmed and the appeal is dismissed. In view of the dismissal of the appeal, the appellant/Transport Corporation is directed to deposit the entire award amount along with accrued interest and costs to the credit of M.C.O.P.No.185 of 2011, Motor Accidents Claims Tribunal, Principal Subordinate Court, Tenkasi, within a period of eight weeks from the date of receipt of the copy of this Judgment.

9. On such deposit being made, the first claimant is permitted to withdraw her entire share in the award amount along with accrued interest and costs, without filing any formal petition before the Tribunal. Claimant Nos.2 and 3 are minors and their shares in the award amount shall be deposited in a fixed deposit, in any one of the Nationalised Bank, till they attain the majority. The first claimant who is guardian of the minor claimant Nos.2 and 3 is permitted to withdraw the accrued interest once in three months, directly from the Bank and utilise the same for their welfare. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/

Assistant Registrar(CS-I)

/TRUE COPY/

Sub Assistant Registrar

To

The Principal Subordinate Judge,

The Motor Accident Claims Tribunal, Tenkasi.

+1cc to M/S.P.Prabhakaran, Advocate in SR.No.39103

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