



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.629 of 2015

and

M.P.(MD)No.2 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam Division-II) Ltd.,
Periyamilaguparai,
Trichy-1.

.. Appellant

Vs.

1.Appadurai
2.Rajalakshmi

.. Respondents

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.491 of 2013, dated 03.07.2013, on the file of the Motor Accidents Claims Tribunal / Special District Court, Tiruchirappalli.

For Appellant : Mr.P.Prabhakaran

For Respondents : Mr.N.Sudhagar Nagaraj (for R1 and R2)

JUDGMENT

The appellant/Transport Corporation has filed the present C.M.A(MD)No.629 of 2015, challenging the award passed in MCOP.No.491 of 2013, dated 03.07.2013, on the file of the Motor Accidents Claims Tribunal / Special District Court, Tiruchirappalli.

2.It is a case of a fatal accident caused on account of an accident took place on 18.06.2010 around 05.15 p.m. in Kariyamanikkam to Kanniyakudi Road. The heirs of the deceased filed an application seeking compensation before the Tribunal. Considering the facts and circumstances of the case, the Tribunal awarded Rs.8,82,400/- as total compensation. Challenging the same, the appellant/Transport Corporation filed the present appeal on the ground that the quantum of compensation awarded by the



Tribunal is excessive.

3.The learned counsel appearing for the appellant contended that the Tribunal has erroneously fixed the monthly income of the deceased and further the deceased was a Bachelor, who invited the accident by committing an act of negligence. Since he himself is a person committed negligence resulting accident, the appellant/Transport Corporation alone should not be liable to pay the entire compensation and accordingly the quantum of compensation is to be reduced.

4.The learned counsel for the respondent opposed the appeal by stating that the negligence aspects at this point of time need not be considered in view of the fact that the Tribunal has adopted the principle laid down by this Court while fixing the compensation. The fact remains, the deceased was aged about 25 years and working as Welding Supervisor in Chithar Vessels Company. Further, irrespective of proving of the monthly income, the Tribunal fixed the notional income of Rs.6,000/-, which cannot be construed as excessive, in view of the fact that this Court held Rs.6,000/- shall be fixed as notional income. Further, an additional income of 30% is also taken and this Court do not find any error on record. In view of the fact that the deceased was working as Welding Supervisor, which is a skilled job. In view of the facts and the circumstances of the case, this Court is not inclined to consider the grounds of appeal and accordingly the award passed by the Tribunal in MCOP.No.491 of 2013, dated 03.07.2013, is confirmed and the Civil Miscellaneous Appeal is dismissed.

5.The appellant/Transport Corporation is directed to deposit the entire award amount with accrued interest within a period of four weeks from the date of receipt of a copy of this order, if not already deposited. The respondents/claimants are permitted to withdraw the entire award amount with accrued interest through RTGS, by filing necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



To

The Special District Judge,
Motor Accidents Claims Tribunal
Tiruchirappalli.

Copy To:-

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

+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 74137
+ 1 CC TO Mr.N.SUDHAGAR NAGARAJ, ADVOCATE IN SR No. 74516

VSA

TE/SS2-KSM : 19/01/2017 : 3P/5C

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