



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.877 of 2014

and

M.P (MD) No.1 of 2014

The Branch Manager,

Tamil Nadu State Transport Corporation,

Kamuthi Depot.

... Appellant/Respondent

vs.

1) Eranagu

2) Minor Sirancheevi

3) Minor Nagendran

4) Minor Vijay

5) Minor Gajendran

(The respondents 2 to 5 are minors represented

through their father and natural guardian Eranagu)

... Respondents/Petitioners

Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 13.12.2013 passed in MCOP.No.96 of 2012 on the file of the Motor Accident Claims Tribunal/Sub Court, Aruppukottai.

For Appellant : Mr.P.Prabhakaran

JUDGMENT

It is the unfortunate case of fatal accident took place on 09.11.2011 around 06.45 p.m on Sayalkudi-Kamuthi road. The legal heirs filed an application before the Motor Accident Claims Tribunal/Sub Court, Aruppukottai, and the Tribunal considering the facts and circumstances of the case, awarded Rs.7,79,500/- as total compensation with interest at 7.5% per annum. The present appeal is filed by the appellant, challenging the award passed by the Tribunal, on the ground that the quantum of compensation awarded by the Tribunal is excessive.

2.The contention of the learned counsel for the appellant is that three persons were travelling in a motor cycle, which resulted in the accident and therefore, the deceased was responsible for the accident. Such being the case, the negligence ought to have been fixed on the part of the deceased person, who was sitting as a pillion rider and the Tribunal though found these facts, failed to consider the fixation of negligence on the part of the deceased. Hence, the compensation requires reconsideration.



3.This Court is not inclined to accept the said contention. Merely because three persons travelled in a motor cycle, contributory negligence cannot be fixed, unless there is evidence to show that they contributed to the accident and further, considering the age of the deceased was 30 years at the time of accident and the number of dependants, this Court is not inclined to consider the grounds of appeal. 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 his share with proportionate interest, through RTGS, by filing necessary applications before the Tribunal. The shares of the respondents 2 to 5/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.1 of 2014 is closed.

Sd/-
Assistant Registrar (W)

/TRUE COPY/

Sub Assistant Registrar

To
The Motor Accident Claims Tribunal,
The Subordinate Judge,
Aruppukottai.

+1 cc to MR.P.Prabhakaran, ADVOCATE, SR NO: 78387

nbj
RL/ss-2-ksm/2p/3c/23.01.2017

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