IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.196 of 2017

and C.M.P.No.1286 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation (CBE) Ltd.,
Having Office at 37, Mettupalayam Road,
Coimbatore - 641 043. ...Appellant/2nd Respondent

versus

1. Kalamani
2. Manikandan
3. Minor Lakshmi
4. Minor Vijayakumar
(R3 and R4 are represented
by their mother Kalamani) ...Respondents 1 to 4/Claimants
5. K.N.Palanisamy (Driver) ...5th respondent/1st respondent

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Decree and Judgment dated 30.01.2015 made in M.C.O.P.No.98 of 2014 on the file of the Motor Accident Claims Tribunal (Special District Judge), Erode.

For Appellant	:	M/s.R.T.Sundari
For Respondents 1 to 4	:	M/s.C.Munusamy
R5	:	Exparte before Lower Court

JUDGMENT

In respect of death of one D.Boopathi, aged 42 years, employed as a Driver and Agriculturist, earning a sum of Rs.20,000/- per month, in the accident that took place on 16.12.2013, the first claimant, wife, aged 39 years, second claimant, son, aged 18 years, third claimant, daughter, aged 17 years, fourth claimant, son, aged 14 years, filed a claim petition, claiming a sum of Rs.15,00,000/- as compensation. As against the claim made, the Tribunal has awarded Rs.8,54,000/- as compensation along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

1.1. Challenging the quantum of compensation as exorbitant and disproportionate to the income of the deceased, this appeal has been filed by the Transport Corporation.

2. The learned counsel appearing for the appellant/Transport Corporation would contend that the Tribunal is incorrect in allowing additional income of 30% for a non-earning person. In other words, it is the contention of the learned counsel for the appellant that compensation awarded under the head 'loss of dependency' is on higher side and the award on other heads are also exorbitant.

3. In order to appreciate the contentions of the learned counsel for the appellant, it is necessary to look into the award passed by the Tribunal.

4. Perusal of the award passed by the Motor Accident Claims Tribunal (Special District Judge), Erode, would go to show that the Tribunal after going through the oral and documentary evidence, has taken into account the following parameters in order to arrive at the quantum of compensation.

5. It is contended by the learned counsel for the appellant that even though driving licence has been produced, there is no proof to show that the deceased has been earning his livelihood by being employed as a driver. The contention of the learned counsel for the appellant cannot be accepted as the deceased died while he was driving. Therefore, no proof is required to show that the deceased had been employed as a Driver. The Driving Licence of the deceased has also been filed as Ex.P10. Considering the date of birth of the deceased as mentioned in the Driving Licence, i.e. 19.03.1970, the age of the deceased has been taken as 44 years and in respect of the age of the deceased, the appropriate multiplier is 14. When there are large number of dependents, it is appropriate to deduct only 1/4th towards personal expenses. The Tribunal has relied upon the Judgment of the Apex Court, reported in 2013 (3) CTC 883, where under, it has been held that in case of self-employed persons or persons with no fixed wages, there must be an addition of income of 50%, in case the deceased is aged below 40 years and in respect of age group exceeding 40, but below 50, there must be an addition of income of 30%. The dictum as given by the Apex Court, has been adopted by the Tribunal and arrived at the quantum of compensation in a very methodical way. Furthermore, 30% towards future prospective increase in income and deduction of 1/4th towards personal expenses and adopting multiplier of 14, quantification has been done by the Tribunal. Therefore, loss of dependency quantified at Rs.8,19,000/- is correct. In fact, the compensation under other heads, i.e. loss of consortium, Rs.10,000/-, funeral expenses at Rs.10,000/-, loss of estate at Rs.10,000/-, transportation Rs.5,000/- are all

on lower side. Therefore, the quantum awarded by the Tribunal cannot be said to be excessive, unreasonable or disproportionate. In such circumstances, this appeal has no grounds.

6. In the result, this Civil Miscellaneous Appeal is dismissed.

7. The Transport Corporation is directed to deposit the entire award amount along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, within a period of four weeks, from the date of receipt of a copy of this order.

8. On such deposit being made, the major claimants are permitted to withdraw their share amount as apportioned by the Tribunal. The share of minor shall be deposited in fixed deposit in any one of the Nationalized Bank for a period of three years, till he attains majority. The mother of the minor is permitted to withdraw the accrued interest thereon once in three months. No costs. Consequently, connected miscellaneous petition is closed.

9. Post the matter on 05.06.2017 for reporting compliance.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1.The Motor Accident Claims Tribunal
(Special District Judge), Erode.

2.The Section Officer,
VR Section, High Court, Madras.

+1cc to M/S.C. Munusamy, Advocate Sr. 12424

+1cc to M/S. R.T. Sundari, Advocate Sr. 12035

C.M.A.No.196 of 2017

SS(CO)
VR(27/4/2017)