IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 24.01.2017

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THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.263 of 2017
&
C.M.P.No.1839 of 2017

State Express Transport Corporation Ltd.,
Rep. by its Managing Director,
Pallavan Salai,
Chennai-600 002. .. Appellant

Versus

1. Pushpa
2. B. Pugazhendhi (Minor)
3. B. Vignesh (Minor)
4. B. Srija (Minor)
   (Minor petitioners rep. by their
   Mother and next friend the first petitioner)
5. Chandra
6. Munusamy .. Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Decree and Judgment dated 01.10.2009 made in M.C.O.P. No.3983 of 2007 on the file of the Motor Accident Claims Tribunal, The Chief Small Causes Court Chennai.

For appellant : Mr.K.J. Sivakumar

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal in M.C.O.P. No.3983 of 2007, dated 01.10.2009, the Transport Corporation has filed this Appeal.

2. The deceased, Babu aged 35 years, working as a mason, earning a sum of Rs. 9,000/- per month, met with an accident on 21.10.2007 for which he was admitted as in patient in the Government General Hospital, where inspite of treatment for a week he succumbed to the injuries and died on 28.10.2007. His wife, children and parents preferred a claim petition in M.C.O.P.No.3983 of 2007, claiming a sum of Rs.10,00,000/- as compensation.

3. The Tribunal, on consideration of oral and documentary evidence awarded a sum of Rs. 4,58,000/- (Rupees Four Lakhs Fifty Eight Thousand Only) as compensation, the break up details of which are as follows:

Loss of dependency (24000x17)	-	Rs.4,08,000/-
Transportation and Funeral Expenses	-	Rs. 5,000/-
Loss of consortium to the first claimant	-	Rs. 20,000/-
Loss of love and affection to claimants 2 to 6	-	Rs. 25,000/-
Total		Rs.4,58,000/-

Aggrieved against the said award, which is stated to be excessive and unreasonable, the appellant has preferred the present appeal.

4. Learned counsel appearing for the appellant submits that the compensation awarded by the Tribunal is very high and the same needs to be reduced. He further submitted that the income fixed by the Tribunal is on the

higher side and needs to be reduced.

5. A perusal of the award passed by the Claims Tribunal would reveal that no documentary evidence has been adduced by the claimants with regard to the monthly income of the deceased. In such circumstances, the Tribunal, conservatively, fixed the monthly income of the deceased Rs.3,000/- per month. On the basis of Ex.P4, Post mortem certificate, the age of the deceased was fixed as 35 years. Taking a sum of Rs.3,000/- as monthly income of the deceased, deducting 1/3rd towards personal expenses and by adopting multiplier 17 a sum of Rs. 4,08,000/- was quantified as compensation towards Loss of dependency. The income fixed at Rs.3,000/= by the Tribunal cannot be said to be unreasonable or excessive. The Tribunal has applied its mind to the materials available on record and has fixed the income of the deceased and, therefore, no interference is called for. Further, deduction towards personal expenses and adoption of multiplier also cannot be found fault with. Accordingly, the quantification of compensation, under the head Loss of Dependency, arrived at by the Tribunal deserves to be sustained.

6. Insofar as the other amounts awarded under the head Transport and funeral expenses, Loss of consortium to wife and Love and affection, though may seem to be inadequate, however no appeal has been filed by the claimants challenging the inadequate compensation awarded and, therefore, this Court is not inclined to revisit the compensation awarded under the above heads. It is also to be noted that future prospects has not been taken into account, while quantifying the amount of compensation towards loss of dependency. Further,

no amount has also been granted towards the medical expenses that the deceased would have incurred for the treatment taken by him. Therefore, this Court is of the considered view that the compensation awarded by the Claims Tribunal deserves no interference.

7. In the result, this Civil Miscellaneous Appeal is dismissed confirming the Judgment and Decree of the Claims Tribunal in M.C.O.P.No.3983 of 2007 dated 01.10.2009. Consequently, connected miscellaneous petition is closed.

8. The appellant is directed to deposit the entire award amount together with interest from the date of claim petition till date of deposit to the credit of the claim petition, less the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal shall transfer the respective share of the claimants as per the apportionment ordered directly to the Bank Account of the claimants through RTGS within a period of two weeks thereafter. Insofar as the share pertaining to the minors, the amount is ordered to be deposited as per the order passed by the Tribunal.

24.01.2017

Index : Yes / No
Internet : Yes / No
arr/GLN

To

1. The Motor Accident Claims Tribunal,
   Chief Small Causes Court, Chennai.

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

DR.S.VIMALA,J.

Arr/GLN

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