IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

C.M.A.No.3482 of 2017
C.M.P.No.22132 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Villupuram Division, Vellore
... Appellant /Respondent

versus

1. Maheswari
2. Anbarasan
3. P.Srinivasan
4. P.Umabarathy
5. Bakkiam ... Respondents /Petitioners

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set-aside the judgment and decree in MCOP No.375 of 2014, dated 19.12.2016 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

For Appellant : Mr. K.J.Sivakumar

For Respondents: Mr. Rangesh khanna

J U D G M E N T

(Judgment of the Court was delivered by S.Vimala, J.,)

The first appellant herein as wife, appellants 2 to 4 as sons and the fifth appellant as mother of the deceased, Periyaswamy, have filed the claim petition for compensation claiming a sum of Rs.50,00,000/- in respect of the death of Periyaswamy.

2. The deceased Periyasamy was aged 48, a conductor in the Tamil Nadu State Transport Corporation, earning a sum of Rs.18,000/- per month, met with a fatal accident on 16.12.2013.

3. The Tribunal on a consideration of the materials awarded compensation under the following breakup details:-

Future loss of income	-	Rs.23,16,130.00
Cremation expenses	-	Rs. 25,000.00
Loss of love and affection to P-2 to P-5	-	Rs. 40,000.00
Loss of consortium to P-1	-	Rs. 20,000.00
		Rs.24,01,130.00

4. The Tribunal, while calculating the future loss of income, took the age of the deceased as 48; adopted the multiplier of 13; fixed the monthly income at Rs.17,131/-; added 30% towards the future prospects; and deducted 1/3rd towards the personal expenses and thus, quantified the loss of income. Awarding a sum of Rs.10,000/- to each of the claimants 2 to 4, totalling Rs.40,000/- towards loss of love and affection, loss of consortium for the first claimant at Rs.20,000/-, cremation expenses at Rs.25,000/-, the total amount has been quantified.

5. The learned counsel appearing for the appellant / Transport Corporation submitted that, in the absence of any valid document having been filed for the age of the deceased, the multiplier of 13 ought not to have been adopted. Similarly, it is contended that no document has been filed to prove the income of the deceased.

5.1. The contention of the learned counsel appearing for the appellant / Transport Corporation that the income was fixed without any valid document is incorrect, as the Tribunal has relied upon Ex.P-6, Salary Certificate, which pertains to the month September 2013. Therefore that contention is rejected.

6. The next contention raised by the learned counsel for the appellant is that the Tribunal ought to have deducted Income Tax from the monthly salary of the deceased and that has not been done.

6.1. The salary, as per Ex.P-6, salary certificate, is Rs.17,131/-. For the year 2012-13, the taxable limit is Rs.2,00,000/- per annum. But even if the annual income exceeds Rs.2,00,000/-, there are some permissible deductions from the salary and if that is taken into account, it will not reach the taxable limit and hence, the monthly income fixed is correct. Even assuming that the annual income was above the taxable limits, the tax payable would be only negligible. Therefore, the said contention of the learned counsel for the appellant has no legs to stand.

7. In view of the above, the Appeal filed by the Transport

Corporation has to be dismissed and it is dismissed accordingly, at the admission stage itself. No costs. Consequently, the connected CMP is closed.

8. The appellant / Transport Corporation shall deposit the compensation amount, as awarded by the Claims Tribunal, along with interest at 7.5% per annum, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. The respondents / claimants are entitled to share the award amount as per the ratio of apportionment made by the Claims Tribunal. On such deposit being made, the Tribunal is directed to transfer the said sum to the Savings Bank Accounts to the claimants / respondents, through RTGS.

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

srk

To

1.Motor Accident Claims Tribunal,
Special District Court, Salem.

2.The Section Officer,
V.R.Section, Madras High Court,
Chennai 104

+1cc to Mr.K.J,Siva Kumar, Advocate SR.No.92160

C.M.A.No.3482 of 2017
C.M.P.No.22132 of 2017

CA(CO)
GN(26/02/2018)