IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 15.12.2017

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THE HONOURABLE TMT.JUSTICE S.RAMATHILAGAM

C.M.A.No.1644 of 2008

The Managing Director,
Tamil Nadu State Transportation
Corporation Ltd., Division I,
No.12, Ramakrishna Road,
Salem – 7. … Appellant/Respondent

Versus

1. R.Shanthi
2. Minor Maheswaran
3. Minor R.Ramya
(Minors are represented by
their Next Friend Guardian
mother R.Shanthi.
4. Ramasamy … Respondents/Petitioners

Appeal filed under Section 173 of the Motor Vehicle Act, 1988 to set aside the award made in MCOP No.601 of 2006, dated 25.01.2008 on the file of the Motor Vehicles Accident Claims Tribunal and Additional District Judge I at Salem.

For Appellant : Mr.S.V.Vasanthakumar

For Respondents: Mr.N. Manokaran

JUDGMENT

The appeal has been filed by the Transport Corporation / appellant as against the award made in MCOP No.601 of 2006, dated 25.01.2008, on the file of Motor Accidents Claims Tribunal, District Judge, Salem.

2. The brief facts of the case are that on 03.03.2006 at about 3.00 p.m., when the deceased was driving the vehicle bearing Registration No. TN -34-9958 on the Kallukurichi to Attur main Road, at that time the bus bearing Registration No.TN 27 N 1467, driven by its Driver in a rash and negligent manner came in the opposite direction and while tried to overtake another bus, dashed against the vehicle driven by the deceased due to which the deceased sustained injuries and died on the spot.

3. The Tribunal, on consideration of oral and documentary evidence and also assessing the earning capacity and age of the deceased awarded a sum of Rs.4,66,480/-, the break up details

are as under :-

Loss of Income	:	Rs.4,15,980/-
Transport, Funeral expenses	:	2,500/-
Loss of consortium	:	18,000/-
Loss of love and affection to all petitioners	:	30,000/-
		Rs.4,66,480/-

Challenging the quantum, the transport Corporation has filed this appeal.

4. It is the contention of the learned counsel for the appellant that there was no proof with regard to the age and income of the deceased. It is further submitted that the multiplier adopted is erroneous and requires interference.

5. A perusal of the order passed by the Tribunal reveals that based on Ex.P-2, death certificate and Ex.P-3, Driving Licence, the Tribunal fixed the the age of the deceased at 42 years. The claimants have claimed that the deceased was earning a sum of Rs.7,000/= as monthly income, however, in the absence of any documentary evidence to substantiate the same, the Tribunal fixed the monthly salary at Rs.3466/= and after deducting 1/3rd towards personal expenses of the deceased and adopting multiplier of 15, quantified the compensation towards loss of dependency at Rs.4,15,980.00 The Tribunal further awarded a sum of Rs.2,500/- towards funeral expenses, a sum of Rs.18,000/- towards loss of consortium and a sum of Rs.30,000/- towards love and affection. In all, the Tribunal awarded a sum of Rs.4,66,480/=.

6. Though it is the contention of the learned counsel for the appellant that the age and income has been wrongly fixed, however, a perusal of the order passed by the Tribunal reveals that the Tribunal has fixed the age on the basis of documentary evidence and, therefore, the contention on that aspect is liable to be rejected. In the absence of any documentary evidence to substantiate their claim of income, the Tribunal has fixed the monthly income at Rs.3,466/=. The above fixation by the Tribunal cannot be said to be excessive or disproportionate. According to the claimant, the deceased was working as a driver and was said to be earning a sum of Rs.5,500/=p.m. Further, the deceased was also possessed of. agricultural lands from which he earned a sum of Rs.1,500/= per month. In all, the claimants stated that the deceased was earning a sum of Rs.7,000/- per month. However, the Tribunal conservatively fixed the monthly income of the deceased at Rs.3,466/- per month.

7. The fixation of monthly income at Rs.3,466/- cannot be said to be excessive, considering the fact that the accident

had happened in the year 2008. The Supreme Court, in the case of Syed Sadiq & Ors. - Vs - Divisional Manager, United India Insurance Co. (2014 (2) SCC 735) has held that even in case of labour in the unorganised sector, it would be safe to fix the monthly income at Rs.6,500/-. The deceased was said to be employed in M/s.Medicine India Pharmaceuticals Ltd. as driver. In such circumstances, the Tribunal has conservatively fixed the monthly income at Rs.3,466/=, which cannot be said to be excessive. Further, it is to be pointed out that the Tribunal has not taken into consideration the future prospective increase in income of the deceased. Had the Tribunal considered the future prospective increase in salary, the compensation would have been much higher. In the above circumstances, this Court is of the considered view that the compensation awarded under loss of income cannot be said to be excessive and, accordingly, the same is confirmed.

8. Insofar as the compensation awarded under the heads funeral expenses and transportation, loss of consortium and loss of love and affection are concerned, the compensation under the above said heads are very meager and usage of the term excessive would only be a hyper-technical argument and cannot be sustained. Accordingly, the compensation awarded under the said heads are confirmed.

9. For the reasons aforesaid, there being no merits in the appeal, it is liable to be dismissed. Accordingly, the appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10. The appellant/Transport Corporation is directed to deposit the award amount along with interest from the date of petition till the date of deposit and costs as ordered by the Tribunal, less the amount, if any, already deposited, to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the major claimants through RTGS within a period of two weeks thereafter. Insofar as the share of the minors are concerned, the same shall be kept in fixed deposit till the minors attain majority and the 1st claimant, mother of the minors is permitted to withdraw the interest accruing thereon once in three months for utilising the same for the welfare of the minors.

Sd/--
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District Judge I at Salem.

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

MG(Co)
sm:02.5.2018