IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 04.07.2017

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THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A. No.1937 of 2017
and
C.M.P.No.10464 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
Kumbakonam Town and Taluk .. Appellant

versus

1. Gandhimathi
2. Vijaya Kumar .. Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree, dated 28.04.2016, made in M.C.O.P.No.103 of 2014 on the file of the Motor Accident Claims Tribunal, Myladuthurai.

For appellant : Mr. D.Venkatachalam

For Respondents : Mr.T.Gopinath

J U D G M E N T

The claimants / mother and brother of the deceased, have filed a claim petition for compensation claiming a sum of Rs.36,00,000/-.

2. The deceased Govindaraj, aged about 46 years, a Diploma holder in Civil Engineering, earning a sum of Rs.30,000/- per month, who was conducting a consultancy service, died in an accident on 10.08.2013. In respect of the death, claiming the loss of dependency and compensation for loss of love and affection, the legal representatives have filed the claim petition.

3. The Tribunal, on a consideration of the materials placed before it, has awarded a sum of Rs.6,89,000/- and the break up details of the award passed are as follows:-

Loss of income	:	Rs.6,24,000/-
Loss of love and affection to each of the claimants @ Rs.25,000/-	:	Rs. 50,000/-
Transport Expenses	:	Rs. 5,000/-
Cremation Expenses	:	Rs. 10,000/-
Total	:	Rs.6,89,000/-

4. In order to appreciate the justifiability of the award, it is necessary to appreciate the details of head under which compensation has been awarded. The Tribunal, has given a finding that there is nothing on record to show the monthly income at Rs.30,000/-, has alleged by the claimants. Accepting that a the deceased was conducting Vignesh Labour Consultancy Services monthly income has been fixed at Rs.6,000/- and after deduction of 1/3rd towards his “personal expenses”, the monthly contribution was fixed at Rs.4,000/-.

5. Considering the age of the deceased as '46', the appropriate multiplier of '13' has been adopted. “Loss of dependency” has been quantified as Rs.6,24,000/- (4000 x 12 x13); loss of love and affection has been awarded at Rs.50,000/-; Transport expenses at Rs.5,000/- and Cremation expenses at Rs.10,000/-.

6. It is the grievance of the learned Counsel appearing for the appellant / Transport Corporation that, when it is the case of death of a bachelor, who was having only mother and brother as dependents, 50% deduction ought to have been made towards the personal expenses, but the learned counsel for the respondents / claimants would point out that when the deceased was aged 46 years and 30% of the income, (that is 30% of 6,000/-) ought to have been added towards future prospective increase in income and that has been omitted to be done by the Tribunal.

7. The commission and omission, as pointed out on either side, would offset the compensation against each other and therefore, the quantum of compensation as awarded by the the Claims Tribunal does not require interference and the Appeal has no merits and the Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

04.07.2017

Index : Yes/No
Internet : Yes/No
kv/sms
Note: Issue order copy on 05.07.2017

To
1.Motor Accident Claims Tribunal, Myladuthurai.

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

Dr.S.VIMALA,J.

Kv/sms

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