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IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED : 15.06.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No. 2241 of 2017

The Managing Director,
State Express Transport
Corporation, Chennai.

Appellant/1st Respondent

Vs

1. Xavier Selvaraj
2. X. Pariseline Jeba
3. C.Kumaravel

.. Respondents/
1st & 2nd petitioners & 2nd
respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Judgment and Decree dated 13.12.2002 made in M.A.C.T.O.P.No. 83 of 2002 on the file of the Motor Accidents Claims Tribunal (III Additional District Court), Pondicherry.

For Appellant :Mr.V.Udayakumar

J U D G M E N T

The deceased, Rosali Mari @ Uma, aged 45 years, working as Tailor earning a sum of Rs.5000/- per month, met with an accident on 07.02.2001 in which she suffered grievous injuries and succumbed to the same. The legal heirs of the deceased filed the claim petition claiming a sum of Rs.12,00,000/= (Rupees Twelve Lakhs Only) as compensation.

2. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs.4,00,000/-, the break-up details of which is as under :-

Amount of compensation	: Rs. 3,84,000/-
Loss of consortium	: Rs. 10,000/-
Funeral Expenses	: Rs. 6,000/-

Total	Rs.4,00,000/-

Challenging the compensation awarded as excessive, the present appeal has been filed by the transport corporation.



3. A perusal of the records reveal that the deceased was working as a Tailor and earning a sum of Rs.5000/- per month. Ex.A.9 certificate issued by Mathan Tailor, Tirunelveli and the membership card Ex.P.11 were relied upon to show that the deceased was a tailor by profession. The employer was examined as P.W.2 who spoke about the same and also stated that the deceased was earning a sum of Rs.5000/- per month. Though P.W.2 has spoken about the monthly income of the deceased, however, in the absence of any documentary evidence to prove the same, the Tribunal, conservatively fixed the monthly income of the deceased at Rs.3000/- (at the rate of Rs.100/- per day). The Tribunal, based on the documentary evidence, fixed the age of the deceased at 47 years. Further deducting 1/3rd towards the personal expenses of the deceased and adopting multiplier of 16, the Tribunal has quantified the compensation at Rs.3,84,000/= (Rs.2,000 X 12 X 16). The Tribunal has awarded a sum of Rs.10,000/- towards loss of consortium and a sum of Rs.6,000/= towards funeral expenses. However, no compensation has been awarded towards loss of love and affection to the second claimant. In all, the Tribunal quantified the compensation in a sum of Rs.4,00,000/=.

5. Though it is the contention of the learned counsel for the appellant that the amount awarded is excessive, however, neither error in calculation nor arbitrariness in granting the compensation has been pointed out. Mere submission that the award granted is excessive cannot be a ground to interfere with the award passed by the Tribunal. In fact the tribunal did not add the future prospective increase on income. A careful perusal of the order passed by the Tribunal reveals that the Tribunal has taken into consideration all aspects of the matter and on careful analysis of the documents placed before it, has awarded just and reasonable compensation and, therefore, the compensation being just and reasonable, this Court is of the considered view that no interference is called for with the order passed by the Tribunal. Further, it is to be pointed out that no compensation has been awarded towards love and affection to the children. Therefore, the award passed by the Tribunal is confirmed.

6. For all the reasons stated above, this appeal is liable to be dismissed and, accordingly, the same is dismissed. No costs. Connected civil miscellaneous petition is closed.

7. The appellant/State Express Transport Corporation is directed to deposit the entire award amount, along with interest and costs as quantified 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 shall transfer the award amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ksa/GLN

To

1. The III Additional District Judge,
Pondicherry.

C.M.A. No. 2241 of 2017

NM(CO)
SM(19/06/2018)