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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2017

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THE HONOURABLE Dr. JUSTICE. S.VIMALA

C.M.A.No.2243 of 2017  
and C.M.P.No.11914 of 2017

Metropolitan Transport Corporation Ltd.,  
Rep. by its Managing Director,  
No.2, Pallavan Salai,  
Chennai - 600 002. ... Appellant / Respondent

versus

1. Jayalakshmi  
2. Palanivelu  
3. Thenmozhi ... Respondents/Claimants

Prayer: Appeal filed under Section 173 of Motor Vehicle Act 1988, against the Judgment and Decree dated 29.06.2011 made in M.C.O.P.No.106 of 2010 on the file of the learned Additional District & Sessions Judge, Fast Track Court No.I, Motor Accident Claims Tribunal, Poonamallee.

For Appellant : M/s.S.S.Swaminathan

#### JUDGMENT

The deceased, Muniyan, aged 33 years, a Mason by profession, earning a sum of Rs.300/- per day, died in an accident that occurred on 11.01.1999. The claimants, viz., the wife, son and daughter have filed the claim petition, claiming a sum of Rs.15,00,000/- as compensation.

2. The Tribunal, on consideration of the oral and documentary evidence, awarded a sum of Rs.7,25,000/- as compensation along with interest, the break-up of which is as under :-

|                                                    |   |               |
|----------------------------------------------------|---|---------------|
| Loss of dependency                                 | - | Rs.6,75,000/- |
| Loss of consortium to the 1 <sup>st</sup> claimant | - | Rs. 10,000/-  |
| Loss of love and affection for three claimants     | - | Rs. 30,000/-  |
| Funeral expenses                                   | - | Rs. 10,000/-  |
|                                                    |   | -----         |
| Total                                              | - | Rs.7,25,000/- |
|                                                    |   | -----         |



Challenging the compensation awarded as excessive, the appellant/Transport Corporation has filed the present appeal.

3. The main contention raised by the learned counsel for the appellant is that the monthly income ought not to have been fixed at Rs.5,000/- especially when the accident is of the year 1999. The monthly income should have been taken only at Rs.3,000/- and not more than that.

4. To appreciate the contention raised above, it is necessary to look into the evidence of the claimant and other parameters, which have been taken by the Tribunal to fix the income.

5. The wife of the deceased examined herself as P.W.1, who, in her evidence, has deposed that the deceased was employed as a mason and he was earning a sum of Rs.300/- per day. However, no documentary evidence to prove the receipt of income has been produced.

6. The Tribunal, while fixing the daily earnings at Rs.200/- per day, has reasoned that the deceased would have worked for 25 days in a month and, accordingly, quantified his monthly earnings at Rs.200/- per day for 25 days, which works out to Rs.5000/- (Rs.200 x 25).

7. The said reasoning given by the Tribunal to fix the monthly income of the deceased at Rs.5,000/- cannot be said to be erroneous or faulty. Even assuming that monthly income fixed by the Tribunal is high, the age of the deceased being only 30 years, the Tribunal has not taken into consideration the future prospective increase in income of the deceased over a period of time. In such circumstances, it cannot be said that the monthly income fixed by the Tribunal is excessive or unreasonable and, accordingly, this Court is of the considered opinion that the compensation awarded by the Tribunal under the head loss of income is just and reasonable and requires no interference.

8. It is further to be pointed out that the compensation awarded under the heads loss of consortium and loss of love and affection are extremely low. However, the compensation having not been questioned by the claimants, this Court is not inclined to enhance the same. On an overall consideration of the materials available on record, this Court is of the considered view that the compensation awarded by the Tribunal is just and reasonable and based on findings and cogent reasoning and, therefore, it calls for no interference.



9. For the reasons aforesaid, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 29.06.2011 passed in M.C.O.P.No.106 of 2010 by the learned Additional District & Sessions Judge, Fast Track Court No.I, Motor Accident Claims Tribunal, Poonamallee. No costs. Consequently, connected miscellaneous petition is closed.

10. The appellant/Transport Corporation is directed to deposit the entire award amount along with interest 7.5% p.a. and costs as quantified by the Tribunal, less the amount, if any, already deposited, from the date of petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this Judgement. The claimants are entitled to compensation as per the ratio of the apportionment made by the Tribunal. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimants through RTGS within a period of two weeks thereafter.

Sd/-  
Assistant Registrar (CS-ii)

//True Copy//

Sub Assistant Registrar

ogy/GLN  
To

1. The learned Additional District & Sessions Judge,  
Fast Track Court No.I,  
Motor Accident Claims Tribunal,  
Poonamallee.

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

C.M.A.No.2243 of 2017

KJI (CO)  
TR(26/02/2018)