IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2017

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

Civil Miscellaneous Appeal No.3098 of 2017
[(SR) No.97339 of 2016]
& CMP No.18868 of 2017 & CMP.17507/17

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram. ... Petitioner/Appellant

..Vs..

1. Kamsala
2. Malathi
3. Thanigaivel
4. Sudhagar ... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree, dated 23.04.2014, made in M.C.O.P.No.159 of 2013 on the file of Motor Accident Claims Tribunal, Special District Judge, Villupuram.

For Appellant : Mr. K.J.Sivakumar

- - -

J U D G M E N T

The Application to condone the delay was allowed, though it was considered along with the merits of the matter.

2. The deceased Kaliyaperumal, aged 54, an agriculturist and a wood-broker, earning a sum of Rs.15,000/- per month, died in an accident that took place on 18.05.2011. The Legal Representatives of the deceased filed a claim petition for compensation claiming a sum of Rs.15,00,000/-. As against the claim made, the Tribunal has passed an award for a sum of Rs.5,13,000/-. Challenging the same, the Transport Corporation has filed this Appeal.

3. The main contention raised by the learned counsel appearing for the appellant / Transport Corporation is that the Tribunal ought not to have fixed the monthly income of the deceased at Rs.4,500/-, in the absence of any documentary

evidence proving the income of the deceased; similar is the contention raised with regard to the age of the deceased also.

4. In order to appreciate the contentions raised, it is necessary to look into the breakup details of the award passed.

5. The Tribunal has fixed the age of the deceased only based upon Ex.P-2-post-mortem certificate, which was issued by the Government Medical and Hospital, Villupuram. So far as the income of the deceased is concerned, the income taken was only at a minimum level, below which there is no possibility of the claimants having survived. The income is taken at Rs.4,500/- and deducting 1/3rd towards the personal and living expenses of the deceased, the yearly dependency was taken at Rs.36,000/-. Adopting the multiplier of 13, the loss of dependency has been calculated at Rs.4,68,000/-. Awarding a sum of Rs.10,000/- towards loss of consortium to the first claimant and Rs.5,000/- towards funeral expenses and Rs.10,000/- towards loss of love and affection to claimants 2 to 4, the total amount has been quantified at Rs.5,13,000/-. The breakup details of the award passed by the Claims Tribunal would go to show that the award cannot be branded as more.

6. Under the circumstances, the Appeal has no merits and therefore, the appeal is liable to be dismissed and it is dismissed accordingly. No costs. Consequently, the connected CMP is closed.

7. The Transport Corporation / appellant is directed to 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, 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 judgment. The share of the compensation amount shall be apportioned between the appellants / claimants, as per the ratio of proportion made by the Claims Tribunal. On such deposit being made, (since all the appellants / claimants are majors), the Tribunal shall transfer the compensation award amount to the Savings Bank Accounts of the respondents / claimants, through RGTS.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

srk

To

1.Motor Accident Claims Tribunal, Special District Judge, Villupuram.

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

C.M.A.No.3098 of 2017
& CMP No.18868 of 2017

SS(CO)
NR 25/04/2018