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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

C.M.A.No.3304 of 2017

and C.M.P.No.20865 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
(V.P.M. DVN III) Ltd.,
Kancheepuram.

... Appellant / Respondent

versus

1. Vasanthi
2. Surender
3. Suganya

Kaliappan (died)
Kamatchi Ammal (died)
(R3 Minor Rep by R1)

... Respondents/Petitioners

Appeal filed under Section 173 of Motor Vehicles Act 1988, against the Judgment and Decree dated 26.02.2015 made in M.A.C.T.O.P.No.173 of 2007 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Chengalpattu.

For Appellant : Mr.A.Antony Arockiaraja
For Respondent : Mr.M.Kempuraj - R1

JUDGMENT

The deceased, K.Ethiraj, aged 40 years, employed as centering worker and earning a sum of Rs.6,000/- p.m., died in an accident on 15.01.2007, in respect of which the legal representatives, namely, wife, son, daughter and parents of the deceased filed a claim petition in M.A.C.T.O.P.No.173 of 2007 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Chengalpattu, claiming compensation of Rs.6,00,000/-.

2. The Tribunal, after considering the oral and documentary evidence, has awarded a sum of Rs.7,64,500/- as compensation, the break-up details of which reads as follows:



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Loss of dependency	-	Rs.6,07,500/-
Funeral expenses	-	Rs. 7,000/-
Loss of consortium	-	Rs. 50,000/-
Loss of love and affection-		Rs.1,00,000/-

Total	-	Rs.7,64,500/-

It appears that pending the claim petition, the claimants 4 and 5, viz., the parents died and, therefore, no amount has been awarded to the claimants 4 and 5.

3. Challenging the quantum of compensation as excessive, the Transport Corporation has filed this appeal.

4. It is the contention of the learned counsel appearing for the appellant that when no documents have been filed to prove the income of the deceased, the Tribunal ought not to have taken the income of the deceased at Rs.4,500/-. Therefore, the amount awarded by the Tribunal is excessive and the same has to be reduced.

5. A perusal of the award passed by the Tribunal reveals that the Tribunal, based on Ex.P4, legal heirship certificate, has fixed the age of the deceased at 40 years. Considering the nature of job of the deceased, no proof having been adduced to prove the income of the deceased, though it was claimed that the deceased was earning a sum of Rs.6,000/= per month, the Tribunal conservatively fixed the monthly income of the deceased at Rs.4,500/-. The Tribunal, relying upon the Sarla Verma's case (2009 (4) MLJ 997), adopted the multiplier of 15 and after deducting $\frac{1}{4}$ th amount towards personal expenses and awarded a sum of Rs.6,07,500/- (Rs.4500 x 12 x 15 - $\frac{1}{4}$) towards loss of earnings. The Tribunal has also awarded a sum of Rs.7,000/- towards funeral expenses, Rs.50,000/- towards loss of consortium and Rs.50,000/- each to 2nd and 3rd petitioners towards loss of love and affection.

6. A careful consideration of the oral and documentary evidence adduced on the side of the claimants coupled with the findings rendered by the Tribunal, this Court is of the considered view that the compensation awarded by the Tribunal is just and reasonable and cannot be said to be excessive. Therefore, no interference is called for with the order passed by the Tribunal and, this appeal being devoid of merits is liable to be dismissed.



7. Accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 26.02.2015 made in M.A.C.T.O.P.No.173 of 2007 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Chengalpattu. Consequently, connected miscellaneous petition is closed.

8. The Transport Corporation is directed to deposit the entire amount of compensation, less the amount, if any, already deposited, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, to the credit of claim petition, within a period of four weeks from the date of receipt of a copy of this Judgment. The claimants 1 to 3 are entitled to the compensation as per the apportionment made by the Tribunal. On such deposit being made, the Tribunal shall transfer the share of the major claimants directly to the Bank Account through RTGS, within a period of two weeks thereafter. As far as the share of the minor claimant is concerned, the same shall be deposited in interest bearing fixed deposit in any one of the Nationalised Banks till she attains majority and the first respondent is entitled to withdraw the interest accruing on such deposit once in three months.

Sd/-

Assistant Registrar(CS-ii)

//True Copy//

Sub Assistant Registrar

ogy/GLN

To

1. The Motor Accident Claims Tribunal,
Additional Sub Court, Chengalpattu.

C.M.A.No.3304 of 2017

gj (CO)
TR(22/03/2018)