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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.422 of 2017
and C.M.P.No.2880 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation,
Rangapuram,
Vellore.

... Appellant / 1st Respondent

versus

1. Meenatchiammal
2. Sasikala
3. Kalaiyarasi
4. Kalaiselvi
5. Sumathy
Petitioners
6. Dhanapal

... Respondents 1 to 5 /

... 6th respondent / 2nd Respondent

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 25.06.2002 made in M.C.O.P.No.267 of 2000 on the file of the Motor Accident Claims Tribunal (Sub Judge), Vellore.

For Appellant : Mr.G.Munirathnam

JUDGMENT

The deceased, Jeganathan, aged about 60 years, a retired Headmaster, getting pension of Rs.7,000/- per month, died in an accident that happened on 13.03.1998. The legal representatives of the deceased, namely, wife and daughters, filed a claim petition in M.C.O.P.No.267 of 2000 before the Motor Accident Claims Tribunal (Sub Judge), Vellore, claiming compensation in a sum of Rs.5,00,000/-.

2. On consideration of oral and documentary evidence, the Tribunal awarded a sum of Rs.2,66,000/- as compensation, together with interest at the rate of 9% p.a. from the date of petition till the date of deposit. Challenging the same, the Transport Corporation has filed this appeal.



4. The learned counsel appearing for the appellant Transport Corporation submitted that the compensation awarded by the Tribunal is excessive and exorbitant and hence, the same has to be reduced.

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5. Now the issue to be decided is whether the compensation awarded by the Tribunal is excessive ?

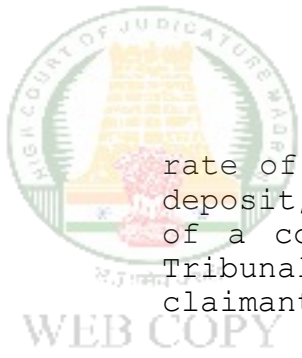
6. A perusal of the documents available on record reveals that the Tribunal, based on the postmortem report, fixed the age of the deceased as 60 years; as the deceased was a retired Headmaster and there was no proof to show the pension amount, the Tribunal fixed the income of the deceased at Rs.4000/-; deducting $1/3^{\text{rd}}$ towards personal expenses and adopting the multiplier of 8, the loss of dependency has been assessed at Rs.2,56,000/-. An amount of Rs.10,000/- has been awarded in total covering the heads loss of love and affection, loss of consortium and funeral expenses and the compensation has been quantified at Rs.2,66,000/-.

7. The quantification of compensation under the head loss of income to the family has been quantified properly and this Court is of the considered opinion that no interference is called for with that portion of the compensation.

8. Insofar as the compensation awarded at Rs.10,000/- covering the heads loss of love and affection, loss of consortium and funeral expenses, it is to be said that the amount is totally inadequate and is not justifiable. Each individual to the claim petition has to be awarded compensation under the head love and affection and the affected spouse has to be awarded compensation under the head loss of consortium and compensation towards funeral expenses should be separately awarded. Clubbing all the three heads into one and awarding a common compensation is not justified. In such view of the matter, this Court is of the considered view that the award, by no stretch of imagination, could be said to be excessive or exorbitant. In fact, the compensation awarded is on the lower side. However, no appeal having been preferred by the claimants and considering the delay of award is on 25.06.2012, this Court is not inclined to enhance the award.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 25.06.2002 passed in M.C.O.P.No.267 of 2000 by the Motor Accident Claims Tribunal (Sub Judge), Vellore. No costs. Consequently, connected miscellaneous petition is closed.

10. The Transport Corporation is directed to deposit the entire amount of compensation as awarded by the Tribunal, less the amount, if any, already deposited along with interest at the



rate of 9% p.a. from the date of claim petition till the date of deposit, 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 same directly to account of the claimants through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ogy/GLN

To

The Motor Accident Claims Tribunal,
(Sub Judge),
Vellore.

C.M.A.No.422 of 2017

gp(CO)
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