



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA(MD) .No.1140 of 2017

and

CMP(MD)No.11526 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
Door No.2, Vannarpettai,
Tirunelveli.

... Appellant / Respondent

Vs.

1.Seeniammal
2.Santhanam
3.Sivaniammal

...Respondents / Petitioners

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act 1988, against the Award and Decree made in M.C.O.P.No.1131 of 2015 dated 23.02.2017 on the file of the Motor Accident claims Tribunal/ Special Sub Court, Tirunelveli.

For Appellant : Mr.P.Prabhakaran

For R- 2 & R-3 : No Appearance

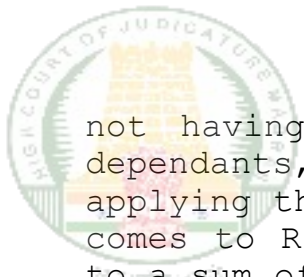
JUDGMENT

Heard the learned Counsel on either side.

2. The Transport Corporation has filed this appeal questioning the impugned award principally on the ground of quantum.

3.The claimants are the wife and parents of the deceased Gurusamy. Gurusamy died in an accident on 06.04.2015 on account of the negligence of the bus driver employed by the appellant Transport Corporation. The claimants filed M.C.O.P.No.1131 of 2015 on the file of the Motor Accident claims Tribunal/ Special Sub Court, Tirunelveli. The Tribunal passed an award for a sum of Rs.15,10,000/-.

4. Questioning that proper commutation method was not adopted, this Civil Miscellaneous Appeal has been filed. Since the deceased was aged 38 years, the multiplier will be 15. Since no income proof was filed, the monthly income of the deceased will have to be taken as Rs.6,500/- services. The Tribunal erred in adding future prospects at the rate of 50%. As per the recent decision of the Hon'ble Supreme Court it must be 40%. Since the deceased was self-employed, he was



not having any permanent employment. Considering the number of dependants, deduction will have to be one third. Therefore, by applying the standard formula the pecuniary loss for the family will come to Rs.10,92,000/- The wife of the deceased will be entitled to a sum of Rs.40,000/- toward loss of consortium. The parents will be entitled to a sum of Rs.80,000/- towards loss of love and affection. A sum of Rs.15,000/- will have to be added towards funeral expenses and further sum of Rs.15,000/- will have to be added towards transportation. The compensation payable to the claimants is quantified at Rs.12,42,000/-.

5.The compensation awarded by the Tribunal is reduced from Rs.15,10,000/- to Rs.12,42,000/-. The award dated 23.02.2017 in M.C.O.P.No.1131 of 2015 on the file of the Motor Accident claims Tribunal/ Special Sub Court, Tirunelveli, is accordingly modified.

6.The appellant Transport Corporation is directed to deposit the entire compensation amount of Rs.12,42,000/- with interest at the rate of 7.5% per annum and costs, from the date of petition till the date of realization, within a period of twelve weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimants are entitled to withdraw the same as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application.

7.This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected C.M.P(MD).No.11526 of 2017 is closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To:

The Special Sub Court,
The Motor Accident claims Tribunal, Tirunelveli.

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Vernacular Section,
Madurai Bench of Madras High Court.
Madurai.

+1cc to Mr.P.Prabhakaran Advocate in SR.NO. 93098

kmi

AE:KKR:SAR4:22/02/2018/2P/5C

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