



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 25.10.2017

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A (MD) No.364 of 2017
and
CMP (MD) No.3922 of 2017

State Transport Corporation,
Kumbakonam
rep. by its Manager,
Periyamilaguparai,
Tiruchirappalli.

: Appellant/1st Respondent

Vs.

1.R.Raja
2.M.Shanmugam
3.S.Sumathy
4.N.Rajkumar
5.The National Insurance Company
through its Manager,
No.74A, Paramathi Salai,
Namakkal,
Namakkal District - 637 001.

: R1 to R3/Petitioners

: R4 and R5/R2 and R3

Prayer: Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the award and decree made in MCOP No.243 of 2016 dated 20.09.2016 on the file of the Motor Accident Claims Tribunal/ Additional District and Sessions Court (Special Court for Essential Commodities Act), Thanjavur.

For Appellant : Mr.P.Prabhakaran

For Respondents : Mr.P.Ganapathi Subramaniam
(for R1 to R3)
Mr.J.S.Murali
(for R5)
No appearance for R4



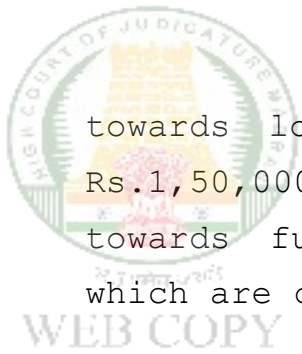
the deceased at Rs.7,500/- and on that basis awarded higher compensation to the claimants.

5. On the other hand, Mr. P. Ganapathy Subramaniam, learned counsel for the respondents/claimants submitted that the claimants have produced certificates Exs. P13 to P17 in order to prove the qualifications acquired by the deceased and therefore, the grounds raised in this appeal for reducing the award has no merit acceptance.

6. We have heard both sides and perused the materials available on record.

7. P.W.2, Sivasanmugam was a passenger in the bus and he was examined to prove the negligence on the driver of the bus. He has deposed before the tribunal in tune with the allegations made in the claim petition. Ex. P1 First Information Report shows that the criminal case was registered against the driver of the Bus. RW1 Murugesan has stated that the driver of the lorry has caused the accident. However, the tribunal, on the basis of the evidence of PW2 and Ex. P1, held that the driver of the bus was responsible for the accident and awarded Rs.18,00,000/- along with interest at 9% p.a.

8. In the case on hand, it is not in dispute that the claimants are legal-heirs of the deceased and she died at the age of 23 years. As rightly contended by the learned counsel for the appellant, the claimants have not produced any documentary evidence to prove the income of the deceased. Taking into consideration the educational qualification of the deceased, it would be appropriate to fix the notional income at Rs.6000/- per month and addition of 50% towards future prospectus as per the decision of the Hon'ble Supreme Court in 2013(2) TN MAC 55, so the total income works out to Rs.9,000/- and after deduction $1/3^{\text{rd}}$ for personal expenses and by applying multiplier '18' the loss of dependency would be Rs.12,96,000/- (Rs.6,000/- x 12 x 18). The tribunal has not awarded compensation



towards loss of consortium to the first claimant, but awarded Rs.1,50,000/- towards loss of love and affection; Rs.25,000/- towards funeral expenses and Rs.5,000/- towards transportation, which are confirmed.

9.In the result, the appeal is partly allowed. The award of the tribunal is modified to Rs.14,76,000/- as against Rs.18,00,000/-. The interest of 9% awarded by the Tribunal is reduced to 7.5% p.a. The appellant Transport Corporation is directed to deposit the modified award amount, less already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such compliance, the claimants are permitted to withdraw their share as per the ratio fixed by the tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The Additional District and Sessions Judge,
Motor Accident Claims Tribunal,
Special Court for Essential Commodities Act,
Thanjavur.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1cc to M/S.P.PRABHAKARAN, Advocate SR.No.83622.

+1cc to M/S.J.S.MURALI, Advocate SR.No.83557.

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