



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

WEB COPY

C.M.A. (MD) No.380 of 2017

in

C.M.P. (MD) No.4113 of 2017

The Tamil Nadu State Transport Corporation,
Madurai Division, Thingal Nagar Branch,
represented by
The Branch Manager,
Kanyakumari District.

... Appellant/1st Respondent

Vs.

R.Merlin Jenitta (Died)

1.Minor R.Aslin

***(Minor first respondent is represented by
her grandfather - Russel Thomas.)***

2.Russel Thomas

... Respondents 1 and 2/
Petitioners

3.A.Namasivayam

(The 3rd Respondent is the driver of
the appellant and given up)

... 3rd Respondent/2nd Respondent

Prayer: Appeal filed under Section 173 of Motor Vehicle Act 1988,
against the order and decreetal order dated 25.08.2012 passed in
M.C.O.P.No.120 of 2008 on the file of the Motor Accidents Claims
Tribunal - Sub Court, Padmanabhapuram.

For Appellant : Mr.P.Prabhakaran

For Respondents : Mr.R.Joseph Thangaraj
for R.1 & R.2

* * * * *

JUDGMENT

The Transport Corporation which has suffered an award for a
sum of Rs.20,87,960/- (Rupees Twenty Lakhs Eighty Seven Thousand
Nine Hundred and Sixty only), is the appellant.

<https://hcservices.ecourts.gov.in/hcservices/>

2. Mr.P.Prabhakaran, learned Counsel for the appellant-



Transport Corporation would vehemently contend that the Tribunal has awarded more than what was sought for in the claim petition. He would also contend that in the claim petition, the salary of the deceased was shown as Rs.9,101/- (Rupees Nine Thousand One Hundred and One only), but at the time of hearing, the salary certificate was produced showing his income as Rs.11,100/- (Rupees Eleven Thousand and One Hundred only). According to the learned Counsel for the appellant-Transport Corporation, the Tribunal should have taken the monthly income at Rs.9,101/- (Rupees Nine Thousand One Hundred and One only).

3. He would further contend that the Tribunal erred in deducting only $1/3^{\text{rd}}$ amount for personal expenses. According to the learned Counsel, deduction of $1/2$ should have been done.

4. I am unable to countenance both the submissions for the following reasons:

Merely because of the Tribunal's award is more than the claim made, the same cannot be interfered with unless it is shown that the award is otherwise unjust or exorbitant. In the case on hand, the deceased was working in the Army and aged only 26 years. Therefore, the Tribunal has taken the monthly income at Rs.11,100/- (Rupees Eleven Thousand and One Hundred only) on the basis of the salary certificate produced and added 50% of the same towards future prospects and fixed the monthly income at Rs.16,650/- (Rupees Sixteen Thousand Six Hundred and Fifty only). After deducting $1/3^{\text{rd}}$ amount towards his personal expenses and also deducting 10% towards income tax, the Tribunal has arrived at the annual loss of income at Rs.1,19,880/- (Rupees One Lakh Nineteen Thousand Eight Hundred and Eighty only). Adopting the multiplier of 17, the total compensation on the head of 'loss of dependency' has been fixed at Rs.20,37,960/- (Rupees Twenty Lakhs Thirty Seven Thousand Nine Hundred and Sixty only). The deduction of $1/3^{\text{rd}}$ amount for personal expenses for Army Personnel itself, is on the higher side, because Army Personnel are provided with their needs at concessional rates. However, the said deduction is not challenged by the claimants.

5. Therefore, taking into consideration the overall circumstances and the fact that the minor child who is the sole claimant, has lost her mother also during the pendency of the proceedings, I do not think that this is a fit case for interfering with the award of the Tribunal.

6. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the award and decree dated 25.08.2012 passed in M.C.O.P.No.120 of 2008 on the file of the Motor Accidents Compensation Court, For in services - Sub Court, Padmanabhapuram. The appellant-Transport Corporation will have twelve weeks time from the date of receipt of a copy of this judgment to deposit the entire award



amount before the Tribunal. No costs. Consequently, the connected civil miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (RTI)

/True copy/

WEB COPY

Sub Assistant Registrar

To

1.The Subordinate Judge, Padmanabhapuram.

2.The Section Officer,

V.R.Section,

Madurai Bench of Madras High Court,

Madurai.

+1 CC to MR.P.PRABHAKARAN, Advocate, SR No. 54392

+1 CC to MR.R.JOSEPH THANGARAJ, Advocate, SR No. 54433

RSB

PSM/JC/SAR4/10.05.2017/3P/5C

C.M.A. (MD) .No.380 of 2017

in

C.M.P. (MD) .No.4113 of 2017

27.04.2017