



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2017

Coram:

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THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A(MD)No.487 of 2017

and

C.M.P(MD)No.5195 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
New Junction Road,
Kumbakonam Town and Munsif .. Appellant/Respondent

//vs//

1.S.Ramu ...Respondent No.1/Petitioner No.1

2.Prakalatha ...Respondent No.2/Petitioner No.2

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act,1988 against the judgement and decree made in M.C.O.P.No.37 of 2010, dated 10.12.2012 on the file of the Motor Accident Claims Tribunal,Additional District and Sessions Court/EC Act Special Court, Thanjavur.

For Appellant : M/s.D.Sivaraman

JUDGMENT

This Civil Miscellaneous Appeal is filed against the judgement and decree made in M.C.O.P.No.37 of 2010, dated 10.12.2012, on the file of the Motor Accident Claims Tribunal,Additional District and Sessions Court/EC Act Special Court, Thanjavur.

2.The Transport Corporation is the appellant. The claimants, who are the parents of one Suresh, who died in a motor accident that occurred on 12.8.2009, sought for compensation of Rs.10 lakhs for the death of their son.

3.The said claim was resisted by the appellant/Transport Corporation, contending that there was no negligence on the part of the driver of the appellant/Transport Corporation bus and it was the deceased who was responsible for the accident.

4.The Tribunal considering the evidence both oral and documentary, concluded that the accident occurred due to the rash driving of the driver of the Transport Corporation bus and based on the facts, an FIR was also registered against him.



5. On the question of quantum, it was claimed that the deceased Suresh was aged 28 years at the time of accident and was earning a sum of Rs.7,500/-p.m. The Tribunal fixed the age of the deceased at 32 on the basis of the Post-mortem Report and taking his monthly income as Rs.5,000/- and after deducting 50% of his income for his personal expenses, arrived at the annual loss of dependency at Rs.30,000/- Adopting the multiplier of '13', the Tribunal fixed the total loss of dependency at Rs.3,90,000/-. Apart from the above, the Tribunal has also granted a sum of Rs.4,450/- towards medical expenses, based on the bills, Rs.20,000/- for loss of love and affection, Rs.7,000/- for transportation, Rs.10,000/- for loss of estate. In all, the Tribunal awarded a sum of Rs.4,31,450/- as compensation.

6. The learned counsel appearing for the appellant/Transport Corporation would contend that the Tribunal had erred in fixing the monthly income of the deceased at Rs.5,000/-p.m., in the absence of any evidence. This, according to the learned counsel, has resulted in the compensation being in excess of a fair and reasonable sum. The Transport Corporation has admitted its liability to the tune of Rs.3,50,000/- and the challenge was only in respect of the remaining amount of Rs.81,450/-. Though the Tribunal had taken the monthly income of the deceased at Rs.5,000/-p.m. Even in the absence of any direct evidence, the Tribunal can fix the income on the basis of the prevailing circumstances, as held by the Honourable Supreme Court. Though the learned counsel would contend that the Tribunal should have taken Rs.4,000/- as monthly income, but I find that the Tribunal has taken Rs.5,000/- as monthly income of the deceased and has deducted 50% of the income towards personal expenses, which bridges the gap to a larger extent. I do not see any reason to interfere with the award passed by the Tribunal and thus the appeal fails.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Miscellaneous Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

The Additional District and Sessions Court/EC Act Special Court,
(Motor Accident Claims Tribunal), Thanjavur.

+One cc to Mr.D.Sivaraman, Advocate, SR.No.60656

vsn

RL/3C/2P/KP/SAR1/7/7/2017

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