



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.11.2016
CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WEB COPY

CMA(MD) No.263 of 2014
and
M.P(MD) No.1 of 2014

The General Manager,
Tamil Nadu State Transport Corporation,
Karaikudi,
Sivagangai District.

... Appellant/Respondent

vs.

1) Tmt. Alli Ammal
2) Minor Bhagwat Raj
3) Minor Bharath Raj
(The respondents 2 and 3 are minors represented by their mother and guardian the 1st respondent) ... Respondents/Petitioners

Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 29.04.2013 passed in MCOP.No.139 of 2011 on the file of the Motor Accident Claims Tribunal, Principal District Court, Ramanathapuram.

For Appellant : Mr.P.Prabhakaran
For R1 to R3 : No appearance

JUDGMENT

It is the case of unfortunate fatal accident took place on 12.08.2010 around 05.00 p.m on Ramanathapuram to Nainar Kovil road. The legal heirs of the deceased filed an application before the Motor Accident Claims Tribunal, Principal District Court, Ramanathapuram, and the Tribunal considering the facts and circumstances of the case, awarded Rs.9,54,056/- as total compensation with interest at 7.5% per annum. The present appeal is filed by the appellant/transport corporation, challenging the award passed by the Tribunal, on the ground that the quantum of compensation awarded by the Tribunal is excessive.

2.Learned counsel for the appellant contended that the respondents/claimants had not produced any evidence showing that the deceased was working as a Lorry driver and therefore, the monthly income fixed by the Tribunal was erroneous and in fact, the Tribunal has fixed the income which is excessive and not in commensurate with the status of the deceased person. In the absence of any production of valid document, the Tribunal ought not to have adopted income based on assumptions and presumptions.



3.The arguments advanced by the counsel for the appellant cannot be accepted, in view of the finding of the Tribunal and in respect of the fact that the deceased was aged 45 years of age and he was working as a Lorry driver and the dependants are minor children. Such being the factual position, this Court is not inclined to consider the grounds of appeal and the total compensation awarded by the Tribunal is just and in accordance with the established principles.

4.The appellant is directed to deposit the entire award amount with proportionate accrued interest and costs, to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this judgment, if not deposited already and thereafter, the 1st respondent/claimant, is permitted to withdraw his share with proportionate interest, through RTGS, by filing necessary applications before the Tribunal. The shares of the respondents 2 and 3/minor claimants shall be deposited in a Nationalised Bank in Fixed Deposit, till they attain majority and on attaining majority, it is for them to approach the Tribunal for disbursement of their shares, by making necessary applications.

In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, M.P(MD)No.1 of 2014 is closed.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

The Principal District Court,
Motor Accident Claims Tribunal,
Ramanathapuram.

+One cc to M/s.P.Prabhakaran, Advocate, SR.No.74502

Copy to:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai

nbi

RL/4C/2P/RR/28.12.2016

CMA(MD)No.263 of 2014
30.11.2016