



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.558 of 2017

and

C.M.P(MD)No.5974 of 2017

M/s.Tamil Nadu State Transport

Corporation Limited,

Represented by its Managing Director,

Coimbatore.

... Appellant/Respondent

Vs.

1.K.Archunan

2.A.Indira

3.A.Rekha

... Respondents/Petitioners

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Judgment and decree passed by the Motor Accident Claims Tribunal, I Additional District Judge, Madurai in M.C.O.P.No.2061 of 2010 dated 10.02.2016.

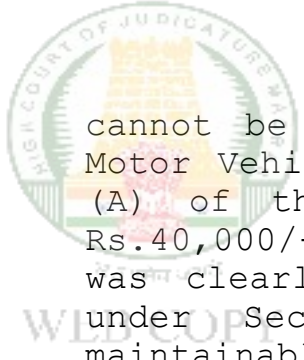
For Appellant : Mr.D.Sivaraman

For Respondents : Mr.A.Theethar for R1 to R3

JUDGMENT

Heard the learned counsel on either side.

2.The Transport Corporation has filed this appeal questioning the impugned award on the ground that the claim petition itself was not maintainable. One Balasubramanian, son of the respondents 1 and 2 died in an accident on 03.08.2010 involving the bus belonging to the appellant Corporation. M.C.O.P.No.2061 of 2010 was filed by the respondents herein for seeking compensation. In the claim petition it has been mentioned that the monthly income of the deceased was Rs.3,500/-. Therefore, the annual income would obviously at Rs.42,000/-. The claim petition was filed under Section 163(A) of the Motor Vehicles Act. The Tribunal chose to restrict the annual income to Rs.39,600/- and awarded compensation. It is true that the question of fault or negligence



cannot be gone into in an enquiry under Section 163(A) of the Motor Vehicles Act. But for the claimant to invoke Section 163 (A) of the Motor Vehicles Act, the annual income should be Rs.40,000/- or less per annum. The annual income of the deceased was clearly above Rs.40,000/-. Therefore, the claim petition under Section 163(A) of the Motor Vehicles Act was not maintainable.

3.The award dated 10.02.2016 made in M.C.O.P.No.2061 of 2010, on the file of the Motor Accident Claims Tribunal, I Additional District Judge, Madurai, is set aside.

4.Liberty is given to the claimant to file a fresh petition. The appellant Corporation is at liberty to withdraw the amount deposited by them.

5.In view of the above, this Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The I Additional District Judge /
the Motor Accident Claims Tribunal,
Madurai.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+ 1 cc TO Mr.D.Sivaraman , Advocate in SR No. 93926

tsg

AE/JC/SAR3/19.03.2018/2P/5C

C.M.A. (MD) No.558 of 2017
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