



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.12.2017
CORAM :
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.234 of 2016
and
C.M.P. (MD) .No.3272 of 2016

The Managing Director,
State Express Transport Corporation Limited,
Office at Thiruvalluvar House,
Pallavan Salai,
Chennai-600 002.

... Appellant /Respondent

Vs.

1.Balakrishnan
2.Lathika @ Petchiammal
3.Manikandan

... Respondents/Petitioners

Prayer: This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 08.07.2015 made in M.C.O.P.No.608 of 2014 on the file of the Motor Accident Claims Tribunal/II Additional District Court, Tirunelveli.

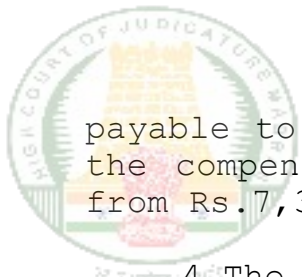
For Appellant : Mr.P.Prabhakaran
For Respondents : Mr.M.Sankar for R1 to R3

JUDGMENT

Heard the learned counsel on either side.

2.The Transport Corporation has filed this appeal, questioning the impugned award both on the ground of negligence as well as quantum.

3.The deceased Maharajan, was travelling as a pillion rider, in a two-wheeler driven by one Premkumar, who was subsequently examined as PW2. The accident took place on 26.02.2014, at about 04.00 p.m., on the Anna Fly Over at Tirunelveli Junction. The deceased was working as a room boy and he was earning a monthly salary of Rs.4,250/- per month. Even though, the claimants have claimed that the deceased was earning a sum of Rs.2,000/- by way of tips, there is no evidence to substantiate the said claim. However, future prospects will have to be added at 40%, the monthly income would therefore come to Rs.5,950/-. Therefore, the monthly income can be taken at Rs.6,000/-. Since he was a bachelor, 50% deduction will have to be made. Therefore, the pecuniary loss to the family will be at Rs.6,48,000/- (Rs.3,000/-X12X18) and for other conventional damages a sum of Rs.52,000/- can be awarded. The compensation



payable to the claimants is quantified at Rs.7,00,000/-. Therefore, the compensation payable to the claimants will have to be reduced from Rs.7,35,000/- to Rs.7,00,000/-.

4. The award dated 08.07.2015, made in M.C.O.P.No.608 of 2014, on the file of the Motor Accident Claims Tribunal/II Additional District Court, Tirunelveli, is modified accordingly.

5. The appellant is directed to deposit the compensation amount of Rs.7,00,000/- with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimants are entitled to withdraw the same, as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal. The appellant/Transport Corporation is permitted to withdraw the excess amount, if any.

6. This Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The II Additional District Judge,
II Additional District Court/
Motor Accidents Claims Tribunal,
Tirunelveli.

Copy To:

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

+1CC to Mr.P.Prabhakaran, Advocate, SR.No.90739

+1CC to Mr.M.Sankar, Advocate, SR.No.90949

C.M.A. (MD) No.234 of 2016

and

C.M.P. (MD) .No.3272 of 2016

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