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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2017

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A(MD)Nos.555 of 2016 and 302 of 2017

and

C.M.P (MD)No.6609 of 2016

C.M.A(MD)No.555 of 2016

Tamil Nadu State Transport Corporation,
Through its Managing Director,
Office at Vannarapettai,
Tirunelveli.

... Appellant/Respondent

Vs.

1.Kannan @ Vaikunda Rama Muthukrishnan

2.Subbulakshmi

3.Poolammal

... Respondents/Petitioners

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Award and Decree made in M.C.O.P.No.609 of 2013 dated 18.03.2014 on the file of the Motor Accident Claims Tribunal (1st Additional District Court), Tirunelveli.

For Appellant : Mr.P.Prabhakaran

For Respondents : Mr.T.Selvakumaran

C.M.A(MD)No.302 of 2017

1.Kannan @ Vaikunda Rama Muthukrishnan

2.Subbulakshmi

3.Poolammal

... Appellants/Petitioners

Vs.

Tamil Nadu State Transport Corporation,
Through its Managing Director,
Office at Vannarapettai,
Tirunelveli

... Respondent/Respondent



PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.609 of 2013 on the file of the Motor Accident Claims Tribunal (I Additional District Court) Tirunelveli, dated 18.03.2014.

For Appellants : Mr.T.Selvakumaran
For Respondent : Mr.P.Prabhakaran

COMMON JUDGMENT

Tamil Nadu State Transport Corporation has filed C.M.A. (MD).No.555 of 2016, questioning the impugned award principally on the ground of quantum. The claimants has filed C.M.A.(MD).No.302 of 2017, seeking enhancement of compensation awarded by the Tribunal to them.

2. The deceased Seenivasan was riding a two wheeler as a pillion rider. On 16.12.2013, the bus belonging to the appellant Transport Corporation had hit the two wheeler, resulting in his death. His parents and sister filed M.C.O.P.No.609 of 2013 on the file of the Motor Accident Claims Tribunal (I Additional District Judge) Tirunelveli.

3. The Tribunal awarded a sum of Rs.36,77,500/- as compensation. Aggrieved by the same the Transport Corporation has filed this Civil Miscellaneous Appeal. It is relevant to point out here that the admitted liability itself is Rs.25,00,000/-.

4. The learned Counsel appearing for the claimants would point out that the deceased Seenivasan was a diploma holder. He was fortunate to get an employment abroad. He was sent for training to Middle East and undergone training for four months. Exhibit.P14 - Pass Book has been marked in original to prove the same. He has also obtained a letter confirming that he has been appointed and a sum of Rs.50,000/- was proposed to be paid as salary. Unfortunately, he met with the said accident, a day after such a letter was issued. Therefore, in this case the claimants have established that the deceased had a potential to earn substantial sum of money. Even though he was not drawing any pay on the date of accident, we cannot go by the notional standard.

5. This Court is of the view that the monthly income of the deceased can be fixed at Rs.18,000/-. Since he was a bachelor there has to be 50% deduction. Future prospects at 40% will have to be added. Since he was aged 22, the multiplier will have to be 18. Therefore the pecuniary loss to family will be Rs.28,50,000/-. Considering the special circumstances obtained in this case, this can be rounded off to Rs.28,50,000/-. The claimants are three in number. Therefore, a sum of Rs. 1,20,000/-



can be awarded towards loss of love and affection. Towards loss of estate and funeral expenses a sum of Rs.30,000/- can be awarded. Therefore the claimants are entitled to a sum of Rs.30,00,000/- as compensation.

6.The compensation awarded by the Tribunal is reduced from Rs.36,77,500/- to Rs.30,00,000/-. The award dated 18.03.2014 in M.C.O.P.No.609 of 2013 on the file of the Motor Accident Claims Tribunal (I Additional District Court) Tirunelveli, is modified, accordingly.

7.The Transport Corporation is directed to deposit the entire compensation amount of Rs.30,00,000/- with interest at the rate of 7.5% per annum and costs, from the date of petition till the date of realization, within a period of twelve 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 appropriate petition before the Tribunal.

8.C.M.A.(MD).No.555 of 2016 is partly allowed. C.M.A (MD). No.302 of 2017 is dismissed. No costs. Consequently, C.M.P(MD) No.6609 of 2016 is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

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To

1. I Additional District Judge,
The Motor Accident Claims Tribunal,
Tirunelveli.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC TO Mr.T.SELVAKUMARAN , Advocate, Sr.No. 94523
+1 CC TO Mr.P.PRABHAKARAN , Advocate, Sr.No. 94297

JAM/15/03/2018/ CVC / SAR 3/ 3P-6C

C.M.A (MD) Nos.555 of 2016
and 302 of 2017
and
C.M.P (MD) No.6609 of 2016
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