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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

CMA. No.192 of 2008  
and  
M.P.No.1 of 2008

The Managing Director,  
Tamilnadu State Transport Corporation Ltd.,  
Kancheepuram. ...Appellant/ Respondent

Vs

1.R.Lakshmi  
2.Vijay  
3.Nithya  
4.Padmavathiammal ...Respondents/ Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in M.A.C.T.O.P.No.609 of 2004 on the file of the Motor Accident Claims Tribunal, (Principal Subordinate Judge), Tindivanam dated 29.04.2005.

For Appellant : Mr.M.Krishnamoorthy

For Respondents : Not ready in notice regarding  
R1 to R4

#### JUDGMENT

The instant appeal has been filed by the Transport Corporation challenging the Award dated 29.04.2005, passed by the Motor Accident Claims Tribunal, (Principal Subordinate Judge at Tindivanam) in M.A.C.T.O.P. No.609 of 2004.

The brief facts leading to the filing of the instant appeal are as follows:



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2. One T.R.Rajendiran died on 26.06.2004 as a result of an accident caused by a bus bearing Registration No.TN-21-N-0634 owned by the Appellant Transport Corporation. The dependents of the deceased who are the respondents 1 to 4 in this appeal, preferred a claim before the Motor Accident Claims Tribunal in M.A.C.T.O.P.No.609 of 2004 seeking a compensation of Rs.20,00,000/- for the death of T.R.Rajendiran. The Motor Accident Claims Tribunal by its Award dated 29.04.2005 in M.A.C.T.O.P. No.609 of 2004 directed the Appellant Transport Corporation to pay the respondents 1 to 4 a sum of Rs.8,90,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.

3. Aggrieved by the Award dated 29.04.2005 passed in M.A.C.T.O.P. No.609 of 2004, the instant appeal has been filed.

4.Heard, Mr.M.Krishnamoorthy, learned counsel for the Appellant. Till date, notice has not been served on the respondents 1 to 4. Since the appeal relates in the year 2008 and this Court is going to confirm the Award, there is no necessity to serve the notice on the respondents 1 to 4 in this appeal.

5. According to the learned counsel for the Appellant, the Tribunal under the impugned Award erred in applying 13 multiplier overlooking the fact that the deceased had only ten more years of his service and he would not get the same income after his superannuation. According to the learned counsel for the Appellant, the deceased was a conductor employed by the Appellant Transport Corporation. He was travelling in the bus as a conductor during his duty hours and issuing tickets and due to the sudden applying of brakes by the driver of the bus, he was thrown out of the bus resulting in his death. Being a conductor employed by the Appellant, if he was alive, he would not be getting the same income after his superannuation. But under the impugned Award, the Tribunal has assessed the monthly income of the deceased at the time of the accident as Rs.8,500/- and has assessed the loss of dependency based on the said assessment which according to him is an erroneous finding.

6.This Court has examined the impugned Award. Even though the Tribunal considered the fact that the deceased at the time of the accident was the Appellant's own employee and he had ten more years of service and he will not be getting the same income after his superannuation, the Tribunal under the impugned Award has not awarded any compensation to the respondents 1 to 4 towards loss of future prospects.



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7.As per the Constitutional bench judgment of the Honourable Supreme Court in the case of National Insurance Company Limited vs. Pranay Shethi and Others reported in 2017 (6) SCC 680, the dependents are entitled for loss of future prospects. If loss of future prospects was awarded to the respondents 1 to 4, the compensation payable to the respondent 1 to 4 would have been much higher than what was awarded under the impugned Award.

8. Considering all these factors, this Court is of the considered view that the compensation awarded by the Tribunal under the impugned Award is not an excessive compensation. Further the deceased himself was employed as a conductor by the Appellant Transport Corporation. He travelled in the bus as a conductor only during his duty hours and was issuing tickets to the passengers. It is the case of the respondents 1 to 4 that only due to the sudden applying of brakes by the driver of the bus, the deceased was thrown out of the bus which resulted in his death.

9. The First Information Report has also been registered only against the driver of the bus for his rash and negligent driving and the said First Information Report has also been marked as Ex.P1 before the Tribunal. Even though the driver of the bus was examined as witness RW1, the Appellant Transport Corporation has not been able to establish before the Tribunal that the driver of the bus was not at fault.

10. In the light of the above observations, this Court is of the considered view that there is no merit in the instant appeal.

11.Accordingly, the Civil Miscellaneous Appeal is dismissed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

12. It is represented that the entire Award amount has already been deposited by the Appellant to the credit of M.A.C.T.O.P. No.609 of 2004 before the Tribunal. The respondents 1 to 4 are permitted to withdraw the same by filing an appropriate application as per the ratio apportioned by the Tribunal.

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

nl/arb



To  
1.

The Motor Accidents Claims Tribunal,  
Principal Subordinate Judge,  
Tindivanam.

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2. The Record Clerk,  
VR Section,  
High Court, Madras.

+1cc to Mr.M.Krishnamoorthy, Advocate SR.No. 70259

CMA. No.192 of 2008

and

M.P.No.1 of 2008

ASK(27/11/2018)