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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2157 of 2009

AND

M.P.NO.1 OF 2009

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
No.37, Mettupalayam Road,
Coimbatore - 43.

...Appellant/2nd Respondent

Vs

1.S.Muthulakshmi
2.N.Krishnammal
3.R.Nachimuthu Naicker
4.Rathinasamy (Given up)

... Respondents 1 to 3/Petitioner

...Respondent 4/Respondent 1

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award made in M.C.O.P.No.207 of 2006 dated 14.11.2008 on the file of the Motor Accident Claims Tribunal and Sub Judge Pollachi.

For Appellant : Mr.K.J.Sivakumar

For Respondent : Not ready in Notice (R1 to R3)

R4- Given up

JUDGMENT

The instant appeal has been filed by the Transport Corporation challenging the Award dated 14.11.2008, passed by the Motor Accident Claims Tribunal (Sub Judge Pollachi), in M.C.O.P.No.207 of 2006.

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

(i)One N.Santhamuthu died on 16.08.2006, as a result of an accident caused by a bus bearing Registration No.TN 38 N 0810 owned by the Appellant Transport Corporation.

(ii)The dependants of the deceased N.Santhamuthu preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.207 of 2006, seeking a compensation of Rs.30,00,000/-.



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(iii) The Motor Accident Claims Tribunal by its Award dated 14.11.2008 in a common award passed in M.C.O.P.Nos.207 and 208 of 2006, directed the Appellant to pay the respondents No.1 to 3, a sum of Rs.2,83,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realization and also awarded costs.

3. Aggrieved by the Award dated 14.11.2008, passed by the Motor Accident Claims Tribunal, the instant appeal has been filed by the Appellant Transport Corporation.

4. Heard Mr.K.J.Sivakumar, learned Counsel for the Appellant. Notice is yet to be served on the respondents. Since the appeal is of the year 2009 and this Court is going to confirm the Award, there is no necessity to serve the notice in the instant appeal on the respondents.

5. According to the learned Counsel for the Appellant, the Tribunal has erroneously assessed the notional income of the deceased at the time of accident at Rs.3,000/- per month and has erroneously applied 16 multiplier. Further, he would contend that without the age and income proof, the Tribunal has assessed the monthly income of the deceased at Rs.3,000/-.

6. This Court after having considered the materials available on record and after having examined the impugned Award and after hearing the submissions of the learned Counsel for the Appellant, observes the following:

(a) The Tribunal has given a clear finding that the accident resulting in the death of N.Santhamuthu was only due to the rash and negligent driving by the driver of the bus owned by the Appellant Transport Corporation.

(b) In the claim petition, the respondents 1 to 3 have disclosed that the deceased was an agricultural coolie and doing milk vending business and was earning a monthly income of Rs.15,000/- per month. Since no document was filed to prove the income, the Tribunal has assessed the monthly income of the deceased at the time of the accident at Rs.3,000/-. No contra evidence has been produced by the Appellant to disprove the monthly income of the deceased.

(c) Even though the Tribunal has erroneously applied 16 multiplier for assessing the compensation payable towards loss of dependency, the Tribunal has not awarded any compensation in respect of other heads.



7.The respondent before the Tribunal had made a claim for Rs.30,00,000/- but the Tribunal has awarded a compensation of only Rs.3,83,000/-.

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8.In the considered view of this Court, the compensation awarded to the respondent No.1 to 3 is a just compensation. In the result, there is no merit in the instant appeal. Accordingly, the appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

9. The appellant transport corporation is directed to deposit the amount awarded by the tribunal along with interest to the credit of MCOP, if not, already deposited within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the respondents 1 to 3 are permitted to withdraw the same as per the ratio apportioned by the tribunal on making an appropriate application.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Vehicles Accident Claims Tribunal,
Sub Judge,
Pollachi.

Copy to:

The Section Officer,
Vernacular Section,
High Court, Madras

C.M.A.No.2157of 2009
AND
M.P.NO.1 OF 2009

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nr 22/11/2018