IN THE JUDICATE OF MADRAS HIGH COURT

DATE : 05.02.2017

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THE HON'BLE MR.JUSTICE R.SUBBIAH
and
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

C.M.A.No.3333 of 2013
and
M.P.No.1 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation Limited.,
(Villupuram-Division III),
Kancheepuram. ... Appellant/Respondent

Vs.

1.Kuppammal
2.Jaikumar
3.Rajkumar ... Respondents/Petitioner

Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act 1988 against the judgment and decree dated 24.01.2013 made in M.C.O.P.No.582 of 2010 passed by the Motor Accident Claims Tribunal (Principal District Judge) at Trivallur.

For Appellant :S.Sairaman

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JUDGMENT

(Judgment of the Court was delivered by R.SUBBIAH, J.,)

When the matter is taken up for consideration, We find that the notice has not yet been served on the respondents. Hence, the learned counsel for the appellant sought time to serve notice on the respondents. But, We are of the opinion that since the matter is pertaining to the year 2013, it would be appropriate to find out as to whether there is any merit in the case to order for a notice. Hence, the matter is taken up for hearing and the learned counsel for the appellant is directed to make his submissions with regard to the merits of the case.

2.The learned counsel for the petitioner would fairly submit that the present appeal has been filed by the Transport Corporation only challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal (Principal District

Judge) at Tiruvallur in and by award dated 24.01.2013 in M.C.O.P.No.582 of 2010.

3.It is submitted by the learned counsel for the appellant that the respondents herein are the claimants before the Tribunal and they are wife and two major sons of the deceased Dravidamani, who died in a motor accident which took place on 30.09.2009 involving the bus bearing Reg.No.TN 21 N 0599 belonging to the appellant-Transport Corporation. With record to the claim of compensation, it is the case of the claimants before the Tribunal that the deceased Dravidamani was working as first grade Carpenter in ICF and receiving monthly salary of Rs.35,000/-. On the basis of the said income, the claimants made a claim for a sum of Rs.20 lakhs as compensation before the Tribunal.

4.In order to prove the income earned by the deceased before the Tribunal, on the side of the claimants, the 2nd claimant/son of the deceased, examined himself as P.W.1 besides examining two other witnesses as P.W.2 & P.W.3. P.W.3 is the Chief Welfare Inspector in ICF, who had adduced evidence with regard to the income earned by the deceased. The Tribunal, after considering the evidence produced on the side of the claimants, has passed an award for a total sum of Rs.17,46,520/-. The break up details of the compensation amount awarded by the Tribunal are as follows_

Loss of dependency	: Rs.17,21,520/-
Loss of consortium	: Rs. 10,000/-
Loss of Estate	: Rs. 10,000/-
For Transportation & Funeral Expenses	: Rs. 5,000/-
	Rs.17,46,520/-

Now, questioning the compensation amount of Rs.17,21,520/- awarded by the Tribunal under the head of loss of dependency, the present appeal has been filed by the Transport Corporation.

5.The learned counsel for the petitioner submitted that the compensation amount awarded by stating that the compensation amount awarded by the Tribunal under the head of loss of dependency is on the higher side and the same needs proper reduction.

6.Keeping the submissions made by the learned counsel for the appellant, We have carefully gone through the entire materials available on record.

7.With regard to the income earned by the deceased, from a perusal of the materials available on record, We find that the deceased was working as first grade Carpenter in ICF and receiving a sum of Rs.35,000/- as monthly salary. In order to prove the income earned by the deceased before the Tribunal, on the side of the claimants, the Chief Welfare Inspector in ICF viz., one C.Raghavan was examined as P.W.3, who had stated in his evidence that the deceased was working as first grade Carpenter and his date of birth is 02.07.1951 and the salary certificate of the deceased was marked as Ex.P.4. Though the salary certificate-Ex.P.4 reveals that the deceased was receiving monthly salary of Rs.33,707, the Tribunal has taken only a sum of Rs.23,910/- as monthly income of the deceased. The Tribunal after deducting 1/3rd amount towards personal expenses, by applying multiplier 9 based on the age of the deceased, who was 58 years at the time of accident, has awarded a sum of Rs.17,21,520/- under the head of loss of dependency, which cannot be said to be on the higher side, since the same was supported by documentary evidence. That apart, the Tribunal has awarded a sum of Rs.10,000/- for loss of consortium and a sum of of Rs.10,000/- for loss of estate and a sum of Rs.5,000/- for transportation & funeral expenses. Thus, the Tribunal has passed an award for a sum of Rs.17,46,520/- as compensation, which cannot be said to be on the higher at any stretch of imagination. The compensation amount awarded by the Tribunal is very reasonable. We do not find any merits in the appeal and the same is liable to be dismissed.

8.Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. The appellant/Transport Corporation is directed to deposit the entire compensation amount with interest as awarded by the Tribunal within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st claimants/wife is entitled to withdraw the same with accrued interest thereon by making necessary application before the Tribunal.

Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssv

To,

The Motor Accident Claims Tribunal
(Principal District Judge) at Tiruvallur.

copy to
The Section Officer
VR Section
High Court, Madras

+1 cc to Thiru.S.Sairaman Advocate sr 9075

C.M.A.No.3333 of 2013
and
M.P.No.1 of 2013

mr(co)
aa03/04/2018