IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

C.M.A.No.2670 of 2018

The Managing Director,
Tamil Nadu State Transport Ltd.,
Kumbakonam. ... Appellant

vs.

1.V.S.Veerappan
2.V.S.Valliammai ... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 14.12.2017 made in M.C.O.P.No.756 of 2013 on the file the Motor Accident Claims Tribunal, Principal Special Judge, Special Court Under E.C. and NDPS Act, Chennai.

For Appellant : Mr.D.Venkatachalam

JUDGMENT
(Order of the Court was made by SUBRAMONIUM PRASAD, J)

The instant civil miscellaneous appeal is directed against the Award dated 14.12.2017, made in M.C.O.P.No.756 of 2013, on the file the Motor Accident Claims Tribunal, Principal Special Judge, Special Court Under E.C. and NDPS Act, Chennai.

2. The facts, in brief, in this appeal are that, on 17.10.2010, at 11.00 p.m., while the deceased Priya @ Shanmugapriya was traveling in a car bearing Registration No.TN-22-AK-3759 on GST Road near Vikravandi from South to North, at Chitali Junction, a bus bearing Registration No. TN 63 N 1066, driven in a rash and negligent manner, hit the car, which resulted in the death of Priya @ Shanmugapriya.

3. Her parents have filed M.C.O.P.No.756 of 2013, before the learned Principal Special Judge, Special Court, claiming a compensation of Rs.10,00,000/- for the death of their daughter,

namely Priya @ Shanmugapriya, caused.

4. Before the Tribunal, it was pleaded that the deceased was an Income Tax Assessee and that a graduate. The Tribunal fixed the monthly salary at Rs.15,000/-, and after deducting half of the income for personal expenses, the Tribunal fixed pecuniary benefit at Rs.7,500/-. The Tribunal in accordance with the judgment of the Hon'ble Supreme Court in Pranay Sethi Vs. National Insurance Corporation, reported in 2017 (16) SCC 680, added 40% wages, towards of the future prospects and fixed the income at Rs.10, 500/- p.m., for the purposes of arriving at the loss of contribution to the family.

5. Thereafter, the Tribunal applied multiplier, '17' and deducted 50% and the Tribunal fixed the compensation at Rs.21,42,000/- (10500 X 12 X 17). The Tribunal further gave Rs.15,000/- towards Funeral expenses and Rs.50,000/- towards loss of love and affection.

6. Being aggrieved by the award of the Tribunal, Tamil Nadu State Transport Corporation, has filed the instant civil miscellaneous appeal. The State Transport Corporation, contended that the monthly salary should not have been fixed at Rs.15,000/- but fixed only at Rs.10,000/-, in the light of the salary certificate. The Tribunal had come to the conclusion that the income could not have been fixed, merely on the basis of salary certificate, in the absence of examining the evidence of the employer. The Tribunal fixed the monthly salary at Rs.15,000/- and this finding does not warrant any interference, for the reason that even a ordinary labourer would earn a sum of Rs.10,000/- per month. Deceased being a graduate, and an income tax assessee, would have had future prospectus, and therefore, a sum of Rs.15,000/- fixed at monthly income for the purpose of computing loss of contribution to the family cannot be said to be on the higher side.

7. Award is just and reasonable. Civil Miscellaneous Appeal is therefore dismissed.

Sd/-

Assistant Registrar (Admin II)

//True Copy//

Sub Assistant Registrar

Dm

TO

1.The Motor Accident Claims Tribunal,
Principal Special Judge,
Special Court Under E.C. and NDPS Act,
Chennai.

2. The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No. 77185

C.M.A.No.2670 of 2018

AD(CO)
GN(03/06/2019)