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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.483 of 2018

and

CMP(MD) No.5699 of 2018

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

... Appellant/2nd Respondent

Vs.

1.Mariappan
2.Esakki Muthu
3.Murugammal
4.Esakkiammal

... Respondents 1 to 4/Petitioners

5. Tamil Nadu State Transport Corporation Limited,
Through its Managing Director,
Kumbakonam

... 5th Respondent/1st Respondent

(The 5th respondent is the sister
Corporation of the appellant
and that given up)

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 26.10.2017, passed in M.C.O.P.No.70 of 2016 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Tirunelveli.

For Appellant : Mr.P.Prabhakaran
For Respondents : Mr.K.Bhaskaran - for R1 to R4

JUDGMENT

This Civil Miscellaneous Appeal has been filed challenging the award passed by the learned Chief Judicial Magistrate, Motor Accidents Claims Tribunal, Madurai in M.C.O.P.No.70 of 2016, dated 26.10.2017.

2. Heard the learned Counsel appearing on either side and perused the records carefully.

3. It is a case of fatal and the tribunal has awarded a sum of Rs.11,36,000/- as compensation, against which, the Appellant/Transport Corporation company is before this Court.



4. Though several grounds are raised in the memorandum of grounds, the main ground on which the appellant Corporation has filed this appeal is on quantum only.

5. The learned Counsel for the appellant submitted that the tribunal erred in fixing the monthly income of the deceased as Rs.22,800/- and deduction of personal expenses at 1/4 is unsustainable. The claimants 3 & 4 got married and they are living separately and therefore, awarding a sum of Rs.25,000/- each to the respondents/claimants towards loss of love and affection is unsustainable.

6. The learned Counsel for the appellant would further submit that as per the latest verdict of the Hon'ble Supreme Court, in the case of **National Insurance Company Ltd., v. Pranay Sethi and others, decided on 31.10.2017**, the compensation awarded towards conventional head ie. loss of consortium, loss of love and affection and funeral expenses are high and therefore, the same deserves interference.

7. Perusal of records show that the deceased was a pensioner and receiving a sum of Rs.22,851/- per month. The learned Judge has reasonably fixed the monthly income of the deceased at Rs.17,100/- per month, after deducting 1/4th towards his personal expenses, which, in my considered opinion, is reasonable. However, no compensation was awarded towards future prospects.

8. It is a simple math that by fixing the future prospects at 10%, as per the age of the deceased and reducing the compensation towards conventional heads, the overall compensation will be on the higher side. Since this appeal is filed by the appellant/transport corporation and the claimants have not filed any appeal, this Court is not inclined to entertain this ground raised by the appellant.

9. The tribunal, having regard to the facts and circumstances of the case and after analyzing the evidences let-in by both the parties, in the interest of justice, has passed the award and therefore, this Court is of the considered view that the ground on which the present appeal came to be filed lacks merit and this appeal is liable to be dismissed.

10. In the result, this Civil miscellaneous appeal is dismissed. The award passed by the tribunal in M.C.O.P.No.70 of 2016 dated 26.10.2017, is hereby confirmed. The appellant is directed to deposit the entire compensation with interest @ 7.5% per annum from the date of claim petition, till the date of deposit, within a period of eight weeks from the date of receipt of a copy of this judgment, if not deposited already. On such



deposit the respondents 1 to 4/claimants are permitted to withdraw their share of award amount with accrued interest and costs, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AD-II)

/True Copy/

Sub Assistant Registrar (SAR-I)

To

The Chief Judicial Magistrate Court,
Motor Accidents Claims Tribunal,
Tirunelveli.

Copy to

The Record Keeper, (2 copies)
Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.

+2cc to Mr.K.Bhaskaran, Advocate Sr.No.70802

+1cc to Mr.P.Prabhakaran, Advocate Sr.No.70917

RM

VB/RSK/SAR1/25.07.2018/3P/7C

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