



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMA(MD)No.1217 of 2010

and

M.P(MD)No.1 of 2010

WEB COPY

Tamil Nadu State Transport Corporation,
Bye Pass Road,
Madurai,
By its Managing Director.

... Appellant/Respondent

vs.

1)Sumathi
2)Minor Viswanathan
3)Minor Jeyamanickam ... Respondents/Claimants
(Respondents 2 and 3 are minors represented
by their mother and guardian 1st respondent)

Appeal filed under Section 173 of the Motor Vehicles, 1988,
against the award dated 22.05.2006 made in MCOP.No.1285 of 2003 on
the file of the Additional District Sessions Court, (Fast Track
Court No.1), Madurai.

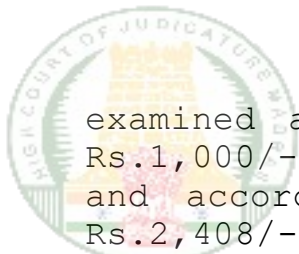
For Appellant : Mr.N.Elango for Mr.R.Janakiramulu
For Respondents : No appearance

JUDGMENT

Challenging the quantum of compensation, the transport
corporation has filed this appeal.

2.It is a case of fatal and the Tribunal considering the oral
and documentary evidence adduced on either side, awarded
compensation of Rs.3,48,000/- with 7.5% interest per annum from
the date of petition till the date of deposit.

3.Perusal of record shows that the deceased Senthamarai aged
33 years at the time of accident, died leaving behind his wife/1st
respondent and respondents 2 and 3/minor children. It was the
case of the claimants that the deceased by working as a Gardener
in MAVMM Polytechnic from 09.00 a.m to 02.00 p.m., earned
Rs.1,408/- per month and from 03.00 p.m to 08.00 p.m., he was
working as a Manager at MAVMM Yoga Centre, Collectorate Road,
Madurai, and earned Rs.3,500/- per month totalling Rs.4,908/- per
month. Though the claimants marked Exs.P4 and P5-Salary
Certificates to prove that the deceased earned Rs.4,908/-, the
Tribunal while accepting Ex.P4 for the salary at Rs.1,408/-,
rejected Ex.P5 holding that the employer who issued Ex.P5 was not



examined and observed that the deceased would have earned only Rs.1,000/- per month by working as a Manager in MAVMM Yoga Centre and accordingly, fixed the monthly income of the deceased at Rs.2,408/-. After deducting 1/3rd towards the personal expenses of the deceased and applying 17 multiplier, the Tribunal calculated the loss of income at Rs.3,26,400/-. Apart from the above, the Tribunal has awarded Rs.20,000/- towards loss of love and affection and Rs.2,000/- towards funeral expenses. Altogether, the Tribunal has awarded compensation of Rs.3,48,000/- with 7.5% interest per annum from the date of petition till the date of deposit.

4.In my considered opinion, the total award amount is very low. The Tribunal has not awarded any sum for future prospects and at the time of accident, the wife of the deceased was aged 25 years and she has lost the consortium of her husband at the young age which has not been adequately compensated. Further, the minor children have lost the love and affection of their father at the very young age. Therefore, the total compensation of Rs.3,48,000/- awarded to the claimants who lost their breadwinner cannot be said to be excessive or bonanza warranting interference by this Court.

5.The appellant is directed to deposit the entire award amount with interest and costs as awarded by the Tribunal to the credit of the claim petition within a period of six weeks from the date of receipt of a copy of this judgment, if not deposited already. On such deposit, the 1st respondent/claimant is permitted to withdraw her share with interest without filing formal permission petition before the Tribunal. At the time of filing of MCOP in 2003, respondents 2 and 3 were minors aged 9 and 6 respectively and now they would have attained majority and therefore, they are permitted to withdraw their respective shares with interest by making necessary application before the Tribunal discharging guardianship.

6.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar (CS)



To

1)The Additional District Sessions Judge,
(Fast Track Court No.1),
Madurai.

2)The Section Officer,-2 copies
V.R. Section
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.JANAKIRAMULU, Advocate (SR-84256[F] dated
29/08/2019)

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