



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.P. (MD) No.2126 of 2019

in

CMA(MD) .No.SR8398 of 2019

WEB COPY

The General Manager
Tamil Nadu State Transport Corporation
(Madurai) Limited
Vannarpettai
Tirunelveli

: Petitioner/Appellant

Vs.

1.Arumugathai
2.Minor Iswarya
3.Minor Esakkimuthu
4.Minor Uma Maheswari : Respondents/Respondents
(Minor Respondents 2 to 4 are rep through their
mother and next friend 1st Respondent herein)

PRAYER in C.M.P(MD).No.2126 of 2019: Civil Miscellaneous Petition has been filed under Section 173(1) of Motor Vehicle Act 1988 to condone the delay of 3180 days in filing the Civil Miscellaneous Appeal against the judgment and decree dated 31.12.2009 in M.C.O.P.No.1645 of 2007 on the file of the Motor Accident Claims Tribunal Cum Principal District Court, Tirunelveli.

PRAYER in C.M.A(MD).SR.No.8398 of 2019: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988 to set aside the judgment and decree dated 31.12.2009 in M.C.O.P.No.1645 of 2007 on the file of the Motor Accident Claims Tribunal Cum Principal District Court, Tirunelveli.

For Appellant : Mr.M.Prakash

JUDGMENT

This Civil Miscellaneous petition has been preferred to condone the delay of 3180 days in filing the Civil Miscellaneous Appeal against the judgment and decree dated 31.12.2009 in M.C.O.P.No.1645 of 2007 on the file of the Motor Accident Claims Tribunal Cum Principal District Court, Tirunelveli.

2.The learned counsel for the petitioner/Tamil Nadu State Transport Corporation Ltd., would submit that the Tribunal has erred in fixing the monthly income and awarding the amount of Rs.5,76,000/- as loss of income by applying the higher multiplier. Further, he would submit that the total compensation of Rs.6,10,500/- is highly excessive and awarded without any basis.



3. On perusal of records it is observed that M.C.O.P.No.1645 of 2007 has been filed by the claimants for claiming a compensation of Rs.10,00,000/-, but the Tribunal has awarded only a sum of Rs.6,10,500/-. It is also observed that during the time of accident, the deceased aged about 35 years. His monthly income has been mentioned in the claim petition is Rs.5,000/-. The Tribunal has taken a monthly income of the deceased as Rs.4,500/- by applying the multiplier 16 and has determined the loss of income of the deceased as Rs.5,76,000/-. The compensation towards moral support was fixed by the Tribunal for a sum of Rs.20,000/-. The Tribunal after analysing the oral and documentary evidence, has awarded a sum of Rs. 6,10,500/- as compensation.

4. This Court finds that if really the petitioner is aggrieved against the award, he would have preferred the appeal at the earliest. The only remedy got from the Court is a financial assistant that too is being deprived by the petitioner by filing this appeal with an abnormal delay is not at all reasonable one. Hence, there is no merit in this petition for condoning the delay of 3185 days in filing the civil miscellaneous appeal.

5. Considering the abnormal delay, this Civil Miscellaneous Petition is dismissed. The award passed in M.C.O.P.No.1645 of 2007 on the file of the Motor Accident Claims Tribunal Cum Principal District Court, Tirunelveli is confirmed. The petitioner/Tamil Nadu State Transport Corporation is directed to deposit the award amount along with interest from the date of petition till the date of deposit, less the amount already deposited if any, within a period of eight weeks from the date of receipt of a copy of this order and on such deposit being made, the claimants/respondents are permitted to withdraw the award amount along with interest as apportioned by the Tribunal, without filing any formal petition before the Court below. No costs.

6. In view of the order passed in CMP(MD)No.2126 of 2019, the connected C.M.A. (MD)SR.No.8398 of 2019 is rejected at the SR stage itself. No costs.

Sd/-

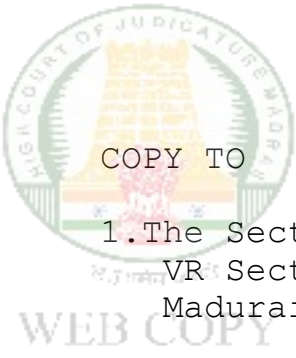
Assistant Registrar (CS-I)

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Sub Assistant Registrar (CS)

msa
To

1. The Principal District Judge,
<https://hcservices.ecourts.gov.in/hcservices/>
Motor Accident Claims Tribunal
Tirunelveli



COPY TO

1. The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai. (2 COPIES)

2. The General Manager
Tamil Nadu State Transport Corporation
(Madurai) Limited
Vannarpettai
Tirunelveli

+1CC TO MR.M.PRAKASH, Advocate Sr. No. 53865

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TR (06.04.2019) 3P 6C