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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.953 of 2009

and

M.P.No.1 of 2009

(Through Video Conferencing)

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Kumbakonam Town,
Kumbakonam. ... Appellant/Respondent

Vs.

1. Ramayee
2. Sathya
3. Sankari (Minor)
4. Valli (Minor)
Minors represented by their Mother
and Guardian the first respondent herein
... Respondents/Claimants

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.70 of 2008, dated 13.08.2008, on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Court (Fast Track Court No.1), Chidambaram, (Sub Court O.P.No.426 of 2006).

For Appellant : Mr.D.Venkatachalam

For Respondents: Mr.T.Gobinath for R1
R2 - Insufficient address
R3 & R4 Minors represented by R1

JUDGMENT

The State Transport Corporation is the appellant in this appeal and is aggrieved by the impugned Judgment and Decree dated 13.08.2008 passed by the Motor Accidents Claims Tribunal, Additional District and Sessions Court (Fast Track Court No.1), Chidambaram in M.C.O.P.No.70 of 2008.



2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.4,48,400/- as compensation together with interest at 7.5% per annum from the date of filing of the claim petition, till the date of payment, to the respondents/claimants who are the dependants of the deceased Samikannu, who met with an accident on 31.03.2006.

3. Before the Tribunal, the respondents/claimants had stated that the deceased Samikannu was aged about 50 years and was earning an average amount of Rs.200/- to Rs.250/- per day as daily earnings. The Tribunal has taken Rs.160/- as daily earning for 20 days and has thus determined the notional income of the deceased as Rs.3200/- per month.

4. The submission of the learned counsel for the appellant is that, the Tribunal failed to deduct 1/3rd towards personal expenses of the deceased. It is further submitted that the Tribunal has erred in adopting multiplier of 11 and therefore the compensation of the Tribunal has to be modified.

5. Heard, the learned counsel for the appellant/State Transport Corporation and the respondents.

6. Though, the Tribunal has not made any deductions towards personal expenses of the deceased, it is noticed that the Tribunal has also not awarded compensation towards future prospects. That apart, the daily income of the deceased Rs.160/- per day in the year 2006 appears to be low. The Tribunal ought to have considered the average income of the deceased as Rs.250/-, which is the maximum claimed by the respondents for awarding compensation. Further, in the case of Syed Sadiq Vs. United India Insurance Co. Ltd., (2014) 2 SCC 735, the Hon'ble Supreme Court has considered the notional income of a vegetable vendor as Rs.6,500/- per month. Therefore, even though the Tribunal has not made any deduction towards personal expenses of the deceased, the over all compensation awarded by the Tribunal appears to be reasonable and a just compensation.

7. If the amount of compensation awarded by the Tribunal has not been deposited by the appellant/State Transport Corporation, it is directed to deposit the same together with interest at 7.5% per annum from the date of filing of the claim petition till the date of such deposit, less the amount already deposited if any, within a period of eight weeks from the date of receipt of the copy of this Judgment.

8. On deposit of the award amount, the first and second respondents/ first and second claimants are entitled to withdraw



the same together with interest as directed by the Tribunal, less any amount already withdrawn, by filing suitable application before Tribunal. If the third and fourth respondents/third and fourth claimants attained the age of majority during the pendency of this appeal, they are permitted to file appropriate application for recording the age of majority to withdraw their respective share together with interest, before the Tribunal.

9. With the above observation and direction, this Civil Miscellaneous Appeal is dismissed. No cost. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

arb
To:

The Motor Accidents Claims Tribunal,
Additional District and Sessions Judge,
(Fast Track Court No.1),
Chidhambaram.

Copy to

The Section Officer,
Vernacular Record,
High Court, Madras.

+1cc to Mr.D.Venkatachalam, Advocate Sr.34554
+1cc to Mr.T.Gobinath, Advocate Sr.34469

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srg 27/08/2021