

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2020

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1975 of 2013

The Managing Director,
Tamil Nadu State Transport
Corporation, Salem.

... Appellant/Respondent

..Vs..

1. Vijayachitra
W/o.Kanagaraj
2. Ramarajan
S/o.Kanagaraj
3. Minor Durga
D/o. Kanagaraj
Rep. by her next friend
and mother 1st appellant's
4. Kailasam
S/o.Vadivel Mudhaliar

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 25.09.2012 made in MCOP. No.1087 of 2009 on the file of the Motor Accident Claims Tribunal, Additional District Judge and Special Judge for EC Act Cases, Salem.

For Appellant : Mr.D.Venkatachalam

For Respondents : Mr.S.P.Yuvaraj R1 to R4

J U D G M E N T

(This Appeal was taken up for hearing through Video Conferencing)

This appeal has been filed by the transport corporation only on the ground that the compensation awarded by the Tribunal under the impugned award dated 25.09.2012 passed in MCOP. No.1087 of 2009 by the Motor Accident Claims Tribunal, Additional District Judge and Special Judge for EC Act Cases, Salem is excessive.

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2. A person by name Kanagaraj died on 04.03.2009 as a result of an accident caused by a bus bearing Registration No.TN 30 N 0812, owned by the appellant/transport corporation.

3. The dependents of the deceased, who are the respondents in this appeal, have preferred a claim before the Motor Accident Claims Tribunal seeking compensation for the death of Kanagaraj.

4. The Motor Accident Claims Tribunal, under the impugned award, has directed the appellant/transport corporation to pay the claimants a sum of Rs.16,10,904/- together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization and costs as compensation.

5. The break-up details of the award passed by the Tribunal in favour of the respondents/claimants are as follows:

Sl.No.	Head	Amount awarded by the Tribunal (Rs.)
1	Loss of income	15,80,904/-
2	Loss of consortium	10,000/-
3	Loss of love and affection	15,000/-
4	Funeral expenses	5,000/-
	Total	16,10,904/-

6. Challenging the said award dated 25.09.2012 passed in MCOP. No.1087 of 2009, the appellant/transport corporation has filed this appeal.

7. Before the Tribunal, the claimants have filed nine documents, which were marked as Ex.P1 to Ex.P9 and three witnesses were examined viz., PW1 - wife of the deceased, PW2 and PW3 - the eyewitnesses to the accident. On the side of the appellant/transport corporation, one document was filed viz., a copy of the judgment in CC. No.52 of 2009 of JM. No.II, Attur, as Ex.R1. But no witness was examined. The deceased was a conductor, employed with Tamil Nadu State Transport Corporation Ltd., Salem Division.

8. The claimants have filed the salary certificate of the deceased, which was marked as Ex.P9. The said salary certificate along with the photocopy of the service register of the deceased proved that the deceased was drawing a salary of Rs.15,200.70/- per month at the time of the accident. The deceased was aged 49 years at the time of the accident, which was proved through Ex.P2, the post mortem certificate. No contra evidence has been produced by the appellant/transport corporation to disprove the

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contention of the claimants that the deceased was aged at 49 years. The Tribunal has also rightly deducted 1/3rd amount towards personal expenses of the deceased, since the claimants are wife, children and father of the deceased. The Tribunal, after deducting the personal expenses of the deceased, has rightly calculated the monthly contribution of the deceased to his family members at Rs.10,134/- per month.

9. The loss of income calculated by the Tribunal at Rs.15,80,904/- is also a correct assessment. The Tribunal has also awarded Rs.10,000/- towards loss of Consortium to the wife, Rs.15,000/- towards loss of love and affection to the children and the father of the deceased and Rs.5,000/- towards funeral expenses, in all amounting to a total sum of Rs.16,10,904/- has been awarded as compensation to the claimants. The quantum of compensation awarded by the Tribunal is not excessive as claimed by the appellant/transport corporation. Since no appeal has also been filed by the claimants seeking for enhancement of compensation, there is no scope for interference to the impugned award.

Conclusion:

10. For the foregoing reasons, this Court does not find any merit in this appeal. Accordingly, this appeal shall stand dismissed. The Appellant /transport corporation is directed to deposit the Award amount together with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal, after deducting the amount, if any, already deposited to the credit of MCOP.No.1087 of 2009 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount to the bank account of the claimants through RTGS within a period of two weeks thereafter. Insofar as the share of the third respondent/minor claimant is concerned, the same shall be deposited in a fixed deposits in any one of the Nationalized Banks till she attains the age of majority, and till such time, the interest accrued thereon shall be withdrawn by the guardian of the minor claimant once in three months, directly from the Bank. If the third respondent/minor claimant has attained the age of majority, it is open to her to file a formal petition before the Tribunal to get her share of apportionment. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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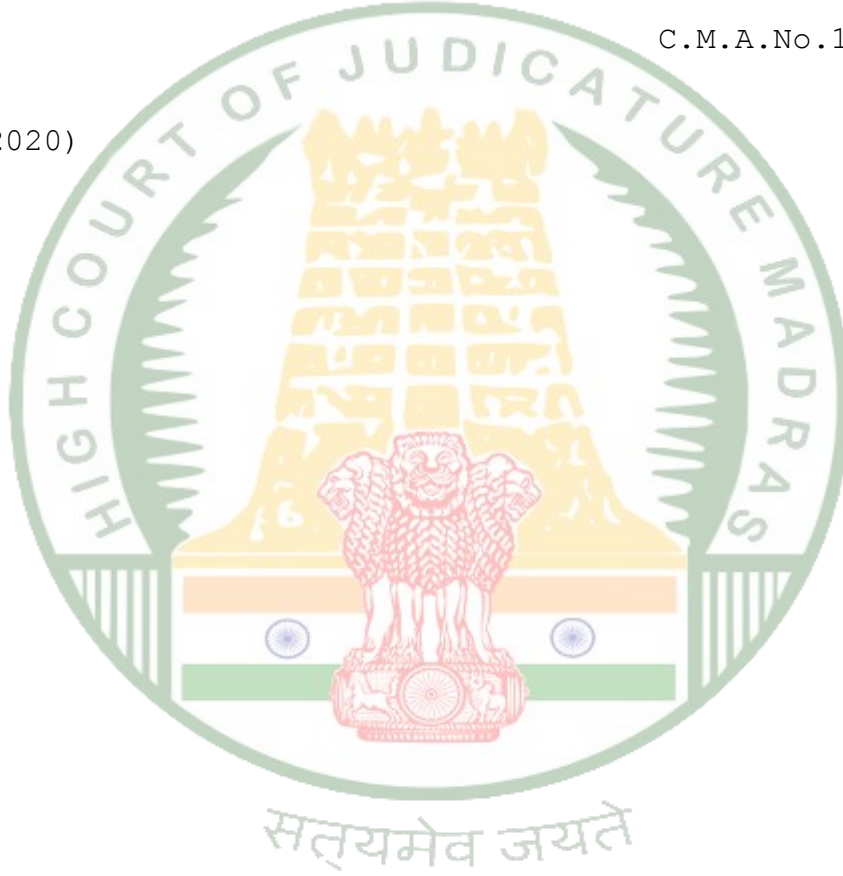
To

1.The Additional District Judge and
Special Judge for EC Act Cases,
MACT, Salem

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