



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.M.A. (MD)No.617 of 2020

WEB COPY

The Managing Director,
Tamil Nadu State Transport Corporation,
Division No.2, Madurai. ... Appellant/Respondent

vs.

1.V.Mathiazhagi
2.Divya
3.Minor V.Dinesh Balaji
(Minor third respondent represented through his
mother and guardian)
4.V.Seethalakshmi ... Respondents/Petitioners

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree made in M.C.O.P.No.2772 of 2004 dated 05.03.2014 on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate Court, Madurai.

For Appellant : Mr.P.Prabakaran
For R1, R2 & R4 : Mr.S.Mahesh Babu

JUDGMENT

In a fatal accident that took place on 26.09.2004, one Vasanthakumar an employee of Indian Railways aged about 45 years had passed away. Seeking compensation, the claimants have filed a Claim Petition. Vide its order dated 05.03.2014, the Tribunal had passed an award for Rs.14,63,096/-. Challenging the same, the Transport Corporation has approached this Court in this appeal.

2. The learned counsel for the appellant argued that the Tribunal has reckoned the monthly income of the deceased at Rs.13,298/- after deducting 1/3rd towards his personal expenses the Tribunal arrived monthly income at Rs.8866/- and applied 13 as the multiplier and arrived at the compensation amount payable under the head loss of dependency at Rs.13,83,096/-.

3. The learned counsel would argue that the claimants have not examined any official from the employer of the victim to prove his salary. Hence, the income fixed by the Tribunal is erroneous. The Tribunal should have fixed only notional income at the relevant



4. Per contra, Mr.Mahesh Babu, learned counsel for the respondents/claimants submitted that they have produced Ex.P.6, the copy of the salary slip and the Tribunal has accepted it. He also added that at no time, the case of the appellant/transport corporation is that the victim was not an employee of Indian Railways.

5. After appreciating the rival contentions, this Court does not find any illegality or infirmity in the approach of the Tribunal in accepting and acting on Ex.P.6 salary slip of the victim. Once it is accepted, the award has to be in order. This Court does not find any merit in this appeal.

6. The learned counsel for the appellant added that the appellant has already deposited the entire compensation amount before the Tribunal. The learned counsel further submitted that earlier the Tribunal has passed an award and that was challenged before this Court and the matter was remanded back to the Tribunal. At that time, the claimants have filed E.P.No.71 of 2008. In that Execution Petition, the appellant has deposited the entire compensation amount. After remand, the present award now impugned in that appeal has been passed in which the claimants have filed E.P.No.29 of 2019. The Execution Court is now required to ascertain the facts as stated by the learned counsel for the appellant and if the amount has already been deposited in the earlier E.P.No.71 of 2008, the same is required to be taken note of in the present execution petition. The balance amount payable by the appellant is directed to be deposited within a period of eight weeks from the date of receipt of a copy of this order.

7. In conclusion, this appeal is dismissed. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

Cm

To

1.The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal, Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>



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

+1 cc to Mr.P.Prabakaran , Advocate SR.No.24510

+1 cc to Mr.S.Mahesh Babu , Advocate SR.No.24557

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