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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.1414 OF 2016

AND

CMP.NO.10821 OF 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Coimbatore Division-II,
Vellore Road, Erode ... Appellant/2nd Respondent

Vs

1.Manjula
2.Minor Saranya
3.Minor Kavitha

R2 and R3 minor represented by Mother/Guardian Manjula

4.Muthammal ... Respondents 1 to 4/Petitioners
5.Mohandas ... 5th Respondent/1st Respondent

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988 against the Decree and order passed in MCOP.No.876 of 2009 dated 26.06.2014 on the file of the Motor Accident Claims Tribunal (Additional Sub Court, Tiruppur).

For Appellant : Ms.R.T.Sundari
For Respondents 1 to 4: Mr.M.Lokesh
for Mr.Ma.P.Thangavel
R5: Not ready in notice
R2 & R3 minor represented by r1

JUDGMENT

(Heard through video conferencing)

This civil miscellaneous appeal has been filed by the Transport Corporation challenging the award dated 26.06.2014 passed by the Motor Accident Claims Tribunal (Additional Sub Court, Tiruppur) in MCOP.No.876 of 2009

2. Heard Ms.R.T.Sundari, learned counsel for the Appellant and Mr.M.Lokesh, learned counsel representing Mr.Ma.P.Thangavel,



learned counsel for the respondents 1 to 4. The fifth respondent has remained exparte both before the Tribunal as well as this Court.

3. The Transport Corporation has primarily challenged the impugned award only on the ground that the quantum of compensation awarded by the Tribunal is excessive. The Tribunal under the impugned award has fixed the contributory negligence on the part of the deceased at 20% and on the part of the Appellant Transport Corporation at 80% and directed the Appellant Transport Corporation to pay 80% of the award amount to the respondents 1 to 4/claimants as compensation. The details of the compensation awarded by the Tribunal are as follows:

Heads	Award Amount (Rs.)
Loss of income	7,10,400/-
Loss of love and affection	2,00,000/-
Loss of future income	50,000/-
Funeral expenses	25,000/-
Medical expenses	52,000/-
Total	9,85,400/-
Less: Contributory negligence 20%	1,97,000/-
Compensation payable to the claimants	7,88,320/-

4. The respondents 1 to 4/claimants are the wife, two minor children and the mother of the deceased. The deceased was a driver aged 35 years at the time of the accident. The accident happened on 21.04.2003.

5. The Tribunal has fixed the notional monthly income of the deceased at Rs.3,300/-. This Court does not find any infirmity in the said finding of the Tribunal as monthly income fixed by the Tribunal cannot be considered to be excessive. The Tribunal has also rightly awarded a compensation towards future prospects to the respondents 1 to 4/claimants at 50% which is also a correct assessment. After giving due consideration to the year of the accident, the Tribunal has rightly adopted the correct multiplier and also rightly deducted 1/4th towards personal expenses of the deceased. The Tribunal has awarded a compensation of Rs.7,10,400/- towards loss of dependency which cannot be considered to be excessive as alleged by the Appellant Transport Corporation.



6. Even though the Tribunal has awarded a higher compensation towards loss of love and affection, loss of future income and funeral expenses, since the notional monthly income of the deceased has been assessed by the Tribunal at a very meagre sum of Rs.3,300/-, this Court is of the considered view that overall compensation awarded by the Tribunal amounting to Rs.7,88,320/- cannot be considered to be excessive as alleged by the Appellant Transport Corporation. Even though the accident happened in the year 2003, as a driver, the deceased would have earned a much higher salary. At least he would have earned a minimum of Rs.5,000/- per month.

7. For the foregoing reasons, there is no merit in this Appeal. Accordingly, this civil miscellaneous appeal is dismissed. The Appellant Transport Corporation is directed to deposit 80% of the amount awarded by the Tribunal i.e., Rs.7,88,320/- after deducting the amount already deposited if any, together with interest from the date of claim till the date of deposit and costs to the credit of MCOP.No.876 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 shall transfer the respective shares of award amount lying to the credit of MCOP.No.876 of 2009 to the bank account of the first and fourth respondents /first and fourth claimants through RTGS within a period of one week thereafter. Since the second and third respondents/second and third claimants are minors, their respective share of award amount shall be deposited in interest bearing fixed deposit in any one of the Nationalised Banks till they attain the age of majority. Till they attain the age of majority, the first respondent/mother of the minors is permitted to withdraw the interest accrued once in six months. It they attain the age of majority, it is open for them to file a formal petition to declare them as major. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Additional Sub Court,
Tiruppur.

2. The Section Officer,
V.R.Section,
High Court of Madras.

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No.40247

C.M.A.No.1414 of 2016

PM(CO)
PM/27/10/2021