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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2021

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1557 of 2016

and

C.M.P.No.11748 of 2016

The Managing Director,
Tamilnadu State Transport Corporation,
Villupuram.

... Appellant/Respondent

..Vs..

1.Rajendran
2.Ganesamoorthy
3.Senthamaraiselvi
4.Selvam
5.Minor. Selvarani

Rep. by next friend, guardian, mother,
third respondent

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 05.03.2016 made in MCOP.No.61 of 2015 on the file of the Motor Accident Claims Tribunal (Additional District and Sessions, Ariyalur, Ariyalur District).

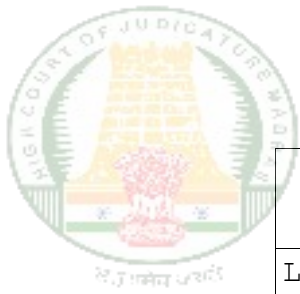
For Appellant : Mr.K.J.Sivakumar

For Respondents : Mr.T.Gobinath

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Transport Corporation challenging the award dated 05.03.2016 passed by the Motor Accident Claims Tribunal (Additional District and Sessions Judge, Ariyalur, Ariyalur District) in MCOP.No.61 of 2015.

2. The Tribunal under the impugned award has directed the Appellant Transport Corporation to pay the respondents/claimants a sum of Rs.7,00,000/- as compensation together with interest and costs for the death of Ramamirtham who died on 19.01.2015 as a result of an accident caused by a bus owned by the Appellant Transport Corporation as detailed hereunder:



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Heads	Award Amount (Rs.)
Loss of income of deceased	6,60,000/- (5000 x 12 x 11)
Funeral Expenses	10,000/-
Loss of Love and Affection	30,000/- (3 x 10,000)
Total	7,00,000/-

3. Heard Mr.K.J.Sivakumar, learned counsel for the Appellant and Mr.T.Gobinath, learned counsel for the respondents.

4. The respondents/claimants are the legal representatives of the deceased Ramamirtham. The deceased was a construction worker at the time of the accident. The accident happened in the year 2015. The Tribunal under the impugned award has fixed the notional monthly income of the deceased at Rs.5,000/-. After giving due consideration to the year of the accident, this Court is of the considered view that fixation of notional monthly income of the deceased at Rs.5,000/- cannot be considered to be excessive. Hence the same is confirmed by this Court. The Tribunal has rightly deducted 1/3rd towards personal expenses of the deceased after giving due consideration to the number of dependents of the deceased. The Tribunal has also adopted the correct multiplier of 11, since the deceased was aged 55 years at the time of the accident. The Tribunal therefore rightly assessed the loss of income of the deceased at Rs.6,60,000/- (5000 x 12 x 11) under the impugned award. The Tribunal has also granted Rs.10,000/- towards funeral expenses and Rs.30,000/- towards loss of love and affection to the dependents of the deceased which in the considered view of this Court cannot be considered to be excessive as alleged by the Appellant. Therefore, the overall compensation awarded by the Tribunal to the respondents/claimants cannot be considered to be excessive as alleged by the Appellant.

5. Before the Tribunal, the respondents/claimants have filed five documents which were marked as Ex.P1 to Ex.P5 and one witness was examined as PW1. On the side of the Appellant Transport Corporation, two witnesses were examined and four documents were marked as Ex.R1 to Ex.R4.

6. The evidence available on record before the Tribunal will clearly establish that the accident happened only on account of fault of the driver of the bus. Hence the Tribunal has rightly



rejected the contention of the Appellant Transport Corporation that the driver of the bus was not at fault. FIR (Ex.P1) has also been registered only against the driver of the Appellant Transport Corporation. No contra evidence has been produced by the Appellant Transport Corporation to disprove the contention of the respondents/claimants only due to the fault of the driver of the bus, the accident had happened.

7. For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal. Accordingly, this Appeal is dismissed. The Appellant Transport Corporation is directed to deposit the entire award amount along with interest and costs as assessed by the Tribunal after deducting the amount already deposited if any to the credit of MCOP.No.61 of 2015 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 amount lying to the credit of MCOP.No.61 of 2015 to the bank account of the respondents 1 to 4/claimants 1 to 4 through RTGS as per the ratio apportioned by the Tribunal within a period of one week thereafter. Since the respondent 5 / claimant 5 is a minor, her share of the award amount shall be deposited in interest bearing fixed deposit in any one of the Nationalised Banks, till she attains the age of majority. If the minor respondent has attained the age of majority, it is open for her to file a formal petition to declare her as major. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
Additional District and Sessions Judge,
Ariyalur, Ariyalur District

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

+1cc to Mr.K.J.Siva kumar, Advocate, S.R.No.23417

C.M.A.No.1557 of 2016

SVI (CO)
CB(01/10/2021)