



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.09.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD) No.833 of 2021

and

C.M.P (MD) No.7710 of 2021

WEB COPY

M/s.Tamilnadu State Transport Corporation
Limited,
Rep. by its Managing Director,
No.2, Thiruvananthapuram Road,
Vannarapettai,
Tirunelveli.

: Appellant/Respondent

Vs.

1.Subbiah
2.Madathi
3.Saraawathi
4.Ramalakshmi

: Respondents/Claimants

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to call for the records relating to the order and decreetal order, dated 10.02.2020 passed in M.C.O.P.No.27 of 2018 by the Motor Accident Claims Tribunal (I - Additional District Judge - FAC), Tirunelveli and to set aside the same.

For Appellant : Mr.R.Rajamohan

JUDGMENT

This appeal is filed by the Transport Corporation. The respondents filed M.A.C.O.P.No.27 of 2018, claiming a sum of Rs.50,00,000/- as compensation, for the death of Narayanan, in a road accident, that took place on 01.12.2017.

2.The learned counsel appearing for the appellant contended that the respondents/claimants have not produced any document to show that the deceased was earning and the Tribunal has erroneously fixed Rs.9,000/- per month without any basis. The Tribunal also erred in granting 40% towards future prospects. The above amounts granted by the Tribunal is without any basis.

3.Heard the learned counsel appearing for the appellant and perused the materials available on record.

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



4.The respondents 1 & 2, who are parents of the deceased and respondents 3 & 4, who are the sisters submitted before the Court below that they have produced Ex.P5 driving licence of deceased Narayanan from which it is clear that he was having valid driving licence at the time of accident. Eventhough there is no direct evidence on the side of the respondents to prove the income of the deceased, it is not denied by the appellant that the deceased was the owner of TATA ACE vehicle, which involved in the accident. The respondents have stated that the deceased purchased the vehicle by borrowing loan. Hence, the deceased was having the earning capacity to repay the loan amount. The Tribunal, considering all these aspects and considering the consumer price index and considering the age of the deceased, fixed monthly income of the deceased at Rs.9,000/- per month. Hence, there is no error in the reasoning arrived at by the Tribunal for fixing the notional income.

5.It is not in dispute that the deceased was 25 years old at the time of the accident. The Tribunal, considering the judgment of the Honourable Apex Court reported in **2017 (2) TNMAC 609(SC) in the case of National Insurance Company Limited Vs. Pranay Sethi and others**, awarded 40% enhancement towards future prospects and the same is in order. The amounts awarded under different heads are not excessive. There is no reason either to modify or set aside the award of the Tribunal.

6.In the result, this civil miscellaneous appeal is dismissed. No costs. Consequently, connected C.M.P.(MD).No.7710 of 2021 is closed.

7.The appellant/ Transport Corporation is directed to deposit the amount awarded by the Tribunal within a period of 8 weeks from the date of receipt of a copy of this judgment, less the amount, if any, already deposited. On such deposit, the respondents/claimants are entitled to their shares, as per the apportionment fixed by the Tribunal. The respondents/claimants are also permitted to withdraw the same, by filing necessary application before the Tribunal.

Sd/-

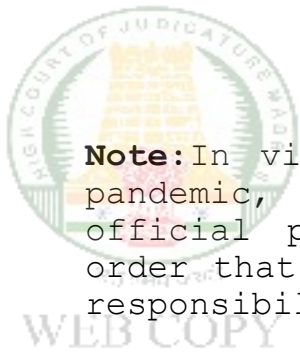
Assistant Registrar (CS III)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1.The I Additional District Judge(FAC),
The Motor Accident Claims Tribunal,
Tirunelveli.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.RAJAMOHAN, Advocate (SR-30657[F] dated 29/09/2021)
C.M.A. (MD)No.833 of 2021
and
C.M.P (MD)No.7710 of 2021
29.09.2021

MGJ(20.10.2021) 3P 5C