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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.922 of 2022
and C.M.P.Nos.6855 and 12271 of 2022

The Managing Director,
APSRTC Kurnool II Depot,
Kurnool District, Andhrapradesh .. Appellant

-Vs.-

1. S. Violet
2. K.Seemarani
3. C.Sheebarani
4. I.Anbarasan .. Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Award and Decree dated 29.03.2019 passed by the I Additional District and Sessions Judge, Vellore in M.C.O.P.No.543 of 2018 and to set aside the same.

For Appellant : Ms.G.V.Shoba

For Respondents : Mr.M.Hari Rajan



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**JUDGMENT**

The Transport Corporation has filed the above appeal, challenging the quantum of compensation granted by the Motor Accident Claims Tribunal, Vellore in M.C.O.P.No.543 of 2018.

2. The Corporation is particularly aggrieved by the fact that the age of the deceased is shown as 49 years, when the first respondent herein, his eldest daughter is aged about 33 years.

3. The learned counsel for the respondents/claimants would submit that the age of the deceased has been fixed as per the postmortem report. The said explanation cannot be countenanced, since a perusal of the age of the claimants would show that the first respondent is aged 33 years, the second respondent is aged 30 years, the third respondent is aged 27 years and the fourth respondent is aged 24 years. If the age of the deceased is taken to be 49 years, the first petitioner should have been born to him when he was aged about 16 years. Therefore, on this ground itself, the age



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contained in the postmortem report cannot be taken to be the true age. That apart, the age of the deceased given in the postmortem report has not been arrived at by adopting a scientific method, but only as per the details furnished to the hospital.

4. Therefore, taking into account the age of the first respondent, the age of the deceased should be 61 years. If the age of the deceased is 61 years, the appropriate multiplier would be 7 and further, the future prospects has also to be reduced from 25% to 10%. The monthly notional income fixed by the Tribunal is Rs.6,000/-, to this, future prospects of 10% is added. Therefore, the monthly notional income would be Rs.6,600/-. The annual income would therefore be a sum of Rs.79,200/- [Rs.6,600 x 12], out of which, 1/3 has to be deducted towards the personal expenses. Therefore, the amount that would be available to the family would be a sum of Rs.52,800/- to this, the multiplier of 7 is adopted. The loss of income would be a sum of Rs.3,69,600/-. Therefore, the Award is modified as follows to the above extent.



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| ***Heads*** | ***Amount by the Tribunal in Rs.*** | ***Amount Awarded by this Court in Rs.*** |
|---|---|---|
| Loss of Income | **8,77,500** | **3,69,600** |
| Loss of love and affection | 60,000 | 60,000 |
| Funeral expenses | 10,000 | 10,000 |
| Transport expenses | 5,000 | 5,000 |
| Total | **9,52,500** | **4,44,600** |

6. Therefore, the Civil Miscellaneous Appeal is partly allowed and the compensation of **Rs.9,52,500.00** awarded by the Tribunal is hereby reduced to a sum of **Rs.4,44,600.00** together with interest @ 7.5 % per annum from the date of petition till the date of deposit. The appellant-Transport Corporation is directed to deposit the said amount **Rs.4,44,600.00** to the credit of M.C.O.P.No.543 of 2018 together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimants are permitted to withdraw the amount now determined by this Court, along with interest and costs, as apportioned by the Tribunal, after adjusting the amount if any already



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withdrawn. The Transport Corporation is permitted to withdraw any excess amount, if any deposited by them. The claimants are directed to pay the Court fee for the compensation amount as awarded by this Court. The Tribunal below shall not disburse the compensation amount till such time as the certified copy showing proof of payment of Court fee has been produced by the claimant. In other respects, the impugned Award of the Tribunal is hereby confirmed. No costs. Consequently, connected C.M.P.No.6855 of 2022 is closed. In view of the order passed in C.M.A, C.M.P.No.12271 of 2022 is also closed.

29.09.2022

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To

1. The I Additional District and Sessions Judge, Vellore

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



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**P.T.ASHA, J.,**

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