



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.03.2022
CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

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C.M.A(MD)No.935 of 2018
and
C.M.P(MD)No.10138 of 2018

The General Manager,
Karaikudi Region,
Tamil Nadu State Transport Corporation,
Karaikudi. :Appellant/Fourth respondent

.vs.

1.A.Sabapathi

2.Sree Kumar

3.Minor Vijai Kumar

(Minor third respondent is represented by his father and next friend,the first respondent herein A.Sabapathi)

4.K.R.Rajendran

5.The General Manager,
Trichy Region,
Tamil Nadu State Transport Corporation,
Trichy.

6.A.Bhaskaran :Respondents/Petitioners and
Respondents 1,2 and 3

(Respondents 4 and 6 are drivers of the appellant and 5th respondent is the sister Corporation of appellant and hence they are given up)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the award and decree made in M.C.O.P.No.604 of 2012, dated 12.08.2013, on the file of the Motor Accidents Claims Tribunal/The Additional District and Sessions Court, Dindigul.

For Appellant :Mr.P. Prabhakaran

For Respondents :Mr.S.A.Ajmal Khan

1 to 3

For Respondent-2 :No appearance

For Respondents :Given Up

4 to 6

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JUDGMENT

This Civil Miscellaneous Appeal is directed against the award and decree made in M.C.O.P.No.604 of 2012, dated 12.08.2013, on the file of the Motor Accidents Claims Tribunal/The Additional District and Sessions Court, Dindigul. The Transport Corporation has preferred this appeal questioning the quantum only.

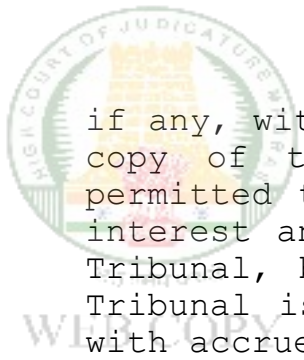
2. The factum of accident, manner of the accident, rash and negligence on the part of the driver of the vehicle and the liability on the part of the Transport Corporation to pay the compensation are not in dispute and hence, the same is hereby confirmed.

3. Heard the learned counsel for the appellant and the learned counsel for the respondents 1 to 3 and perused the materials placed before this Court.

4. On a perusal of Ex.P5-Salary Certificate, I find that the salary immediately preceeding the month of accident was Rs.29,634/-. Accordingly, the Tribunal has fixed the income at Rs.26,671/- after allowing permissible deductions and hence, the salary as fixed by the Tribunal is confirmed. As per Ex.P12-Service Register, the date of birth is mentioned and the date of accident is 16.09.2010 and hence on the date of the accident, the deceased was 46 years and the multiplier '13' is properly adopted by the Tribunal. However, with regard to the award of future prospects, following the **Pranay Sethi's case**, it should be 30% only and not 40%. On the head of love and affection for two sons, it is reduced to Rs.40,000/- each, totally Rs.80,000/-, as per the directions of the Honourable Supreme Court. The award of Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate are confirmed. For the purpose of calculation, the salary is taken as Rs.29,634/- and by adding 30% towards future prospects it comes to Rs.38,524 (Rs.29,634+Rs.8890=Rs.38,524/-). Thus, the loss of income is arrived at $\text{Rs.38,524} \times 12 \times 13 \times 2/3 = \text{Rs.40,06,496/-}$. The loss of consortium for the first claimant/husband is fixed at Rs.40,000/- and another sum of Rs.1,000/- is awarded for transport expenses and thus the total Compensation is arrived at Rs.41,57,496/- ($\text{Rs.40,06,496/-} + \text{Rs.40,000/-} + \text{Rs.80,000/-} + \text{Rs.15,000/-} + \text{Rs.15,000/-} + \text{Rs.1,000/-} = \text{Rs.41,57,496/-}$).

5. Accordingly, the compensation amount awarded by the Tribunal is reduced from Rs.43,80,676/- to Rs.41,57,496/- with interest at the rate of 7.5%p.a. from the date of claim petition till the date of realisation. The learned counsel for the appellant/Transport Corporation is directed to deposit the modified award amount with accrued interest and costs, less the award amount already deposited,

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if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made claimants are permitted to withdraw their share in the award amount with accrued interest and costs, as per the ratio of apportionment made by the Tribunal, by filing necessary application before the Tribunal. The Tribunal is directed to refund the balance award amount, if any, with accrued interest to the appellant/Transport Corporation.

6.The Civil Miscellaneous Appeal is partly allowed to the extent as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS II)

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/ /2022

Sub Assistant Registrar(CS)

vsn

To

1.The Additional District and Sessions Judge,
Motor Accidents Claims Tribunal,
Dindigul.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-10855[F] dated
09/03/2022)

+1 CC to M/s.S.A.AJMAL KHAN, Advocate(SR-11017[F] dated
10/03/2022)

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MGJ(29.03.2022) 3P 6C