



C.M.A.(MD).No.896 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.896 of 2016

and

C.M.P(MD) Nos.8193 of 2016 and 784 of 2023

The Tamil Nadu State Transport Corporation,
Pillai Thanneer Pandal
Thirumayam Road,
Pudukkottai.

..... Appellant/ Respondent

-vs-

1. Vijaya
2. Minor Durga Devi
3. Minor Saranya
4. Minor Panidyaraj
5. Manivel
6. Mariyayee

... Respondents / Petitioners

(Minors 2 to 4 are represented through their
Mother and natural guardian Vijaya, the
1st respondent herein).

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and award made in M.C.O.P.No.636 of 2013, dated 05.12.2015, on the file of the Motor Accidents Claims Tribunal, Special District Court, Tiruchirapalli.



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For Appellant : Mr.D.Sivaraman

For Respondents : No appearance

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the State Transport Corporation challenging the award passed by the Motor Accident Claims Tribunal, Special District Court, Tiruchirapalli, made in M.C.O.P.No. 636 of 2013 primarily on the ground of quantum.

2. According to the legal heirs of the deceased person, the deceased was running a canteen in an industry and he was earning a sum of Rs.10,000/- (Ten Thousand only) per month. The deceased was aged about 37 years, at the time of accident. In order to establish that the deceased was running a canteen in the industry, the two of the employees of the factory were examined as P.W. 4 and P.W.6. The rice merchants who supplied the groceries to the said canteen were examined as P.W.3 and P.W.5 to establish the fact that the license was granted to the deceased for running a canteen on behalf of the Panchayat. Therefore, there cannot be any dispute that the deceased was running a canteen in the Harihar Alaiyus Power Plant Company, Sooriyur.



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3. The claimants have contended that the deceased was earning a sum of Rs.10,000/- (Rupees Ten Thousand only) per month. Considering the fact that the deceased is a canteen owner, the monthly income as claimed by the claimants cannot be considered to be exorbitant or unreasonable. The Tribunal has taken 30% as future prospectus and $\frac{1}{4}$ was deducted towards personal expenses and arrived at the total compensation for loss of income of Rs.17,55,000/- (Rupees Seventeen Lakhs and Fifty Five Thousand only). In view of the age of the deceased person, the Tribunal has also awarded a sum of Rs.1,00,000/- (Rupees One Lakh only) towards loss of love and affection and has also further awarded a sum of Rs.50,000/- (Rupees Fifty Thousand only) to the first claimant for loss of consortium. For funeral expenses, a sum of Rs.10,000/- (Rupees Ten Thousand only) has been awarded and 10% was deducted for income tax. The Tribunal has awarded a sum of Rs.17,23,500/- (Rupees Seventeen Lakhs Twenty Three Thousand and Five Hundred only). This award is under challenge in the present appeal.

4. According to the learned counsel appearing for the appellant, the monthly income should not have been taken as Rs.10,000/- (Rupees Ten



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Thousand only) especially, when no documents would prove the said fact. However, I am not inclined to interfere with the quantum of compensation, in view of the fact that the petitioners/claimants have let in substantial evidence to establish the fact that the deceased was running a canteen in the industrial premises. The Tribunal has awarded a sum of Rs.1,50,000/- (Rupees One lakh Fifty Thousand only) towards loss of love and affection and for loss of consortium and only a sum of Rs.10,000/- (Rupees Ten Thousand only) towards funeral expenses. Therefore, considering the above said facts, this Court is of the considered opinion that the award is reasonable one and there is no ground to interfere in the quantum of award.

5. Accordingly, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous Petitions are closed.

29.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accidents Claims Tribunal,
Special District Court,
Tiruchirapalli.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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