



C.M.A(MD)No.335 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.06.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.335 of 2018

and

C.M.P(MD)No.4548 of 2018

The Managing Director,
Tamil Nadu State Transport Corporation,
Periyamilaguparai,
District Collector's Office Road,
Trichy.

... Appellant/Respondent

Vs.

1.Baby

2.Minor.Girish Krithik Deepak

3.Chinnu

4.Murugayee

... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Sub Court, Kulithalai in M.C.O.P.No. 32 of 2014, dated 16.03.2016.



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C.M.A(MD)No.335 of 2018

For Appellant : Mr.D.Sivaraman

For Respondents : Mr.N.Sudhagar Nagaraj

JUDGMENT

The present appeal has been filed by the transport corporation challenging the award in M.C.O.P.No.32 of 2014 on the file of Motor Accident Claims Tribunal, Kulithalai on the ground of quantum.

2. A perusal of the grounds indicates that the award has been passed for a sum of Rs.23,19,300/- and the present appeal has been filed admitting the liability to an extent of Rs.10,00,000/- and challenging the balance award amount.

3. The deceased was 39 years old Civil Engineer, who was holding a diploma in Civil Engineer and drawing a salary of Rs.20,000/- per month when he met with an accident and passed away on 15.12.2013. The tribunal has taken into consideration the monthly income at Rs. 15,000/- as per Exhibit P.4/salary certificate and the evidence of P.W.3. The tribunal has further added 30% towards future prospects. The tribunal has finally awarded a sum of Rs.24,57,000/- under the head of loss of income. A sum of Rs.50,000/- has been awarded towards loss of



C.M.A(MD)/No.335 of 2018

consortium and a sum of Rs.25,000/- to the minor son towards loss of love and affection, a sum of Rs.10,000/- to each one of the claimants 3 and 4 towards loss of love and affection. Totally, a sum of Rs.25,77,000/- has been awarded. Thereafter, 10% has been deducted towards income tax and as a final outcome, a sum of Rs.23,19,300/- has been awarded. This award is under challenge in the present appeal by the transport corporation challenging the quantum.

4. According to the learned counsel appearing for the appellant, there is no proof whatsoever that the deceased was drawing a sum of Rs.15,000/- per month. That apart, 30% should not have been added towards future prospects and only 25% should have been added. Hence, he prayed for allowing the appeal and to reduce the quantum under the above said heads.

5. Per contra, the learned counsel appearing for the respondent pointed out that the total income arising out of the award amount does not attract 10% deduction towards income tax. However, the tribunal has chosen to deduct income tax. Therefore, over all award of the tribunal may be confirmed.



C.M.A(MD)No.335 of 2018

6. Considering the fact that the deceased was a Diploma holder in civil engineering and had died at the age of 44 years, the fixation of notional income based on the salary certificate marked as Exhibit P.4, this Court is of the opinion that the fixation of income at Rs.15,000/- per month is not excessive. Considering the fact that the deceased was in a permanent employment in a construction company, the tribunal was right in adding 30% towards future prospects. Therefore, this Court is not inclined to disturb the total award amount. The appeal lacks merits.

7. Hence, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

26.06.2023

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

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C.M.A(MD)No.335 of 2018

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To

- 1.The Motor Accident Claims Tribunal,
Sub Court,
Kulithalai.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A(MD)No.335 of 2018

R.VIJAYAKUMAR,J.

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Judgment made in
C.M.A(MD)No.335 of 2018

26.06.2023