



C.M.A(MD)No.950 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2023

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.950 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
Kumbakonam Ltd.,
Kumbakonam Taluk & Munsif.

... Appellant/1st Respondent

Vs.

1.Minor Varsha

... Respondents/1st Petitioner

2.Minor Praveen

... Respondent/2nd Petitioner

*(Minors are represented through
their Guardian and Grand Mother
Chella Pappa)*

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act 1988, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Additional District & Sessions Court / EC Act Special Court, Thanjavur in M.C.O.P.No.1039 of 2011 dated 18.01.2013.

For Appellant : Mr.D.Sivaraman



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For Respondents : No Appearance

JUDGEMENT

The present appeal has been filed by the transport corporation challenging the award passed by the Motor Accident Claims Tribunal, Thanjavur made in M.C.O.P.No.1039 of 2011.

2. The husband and wife were travelling in a two wheeler which was hit by the bus belonging to the transport corporation. In the said accident, the husband had passed away and his legal heirs, namely his minor children have filed M.C.O.P.No.1038 of 2011. The wife was the pillion rider and she had also passed away in the said accident. Another M.C.O.P.No.1039 of 2011 was filed by the minor children through their grand-mother. As far as M.C.O.P.No.1038 of 2011 is concerned arising out of the death of the father, the award amount was satisfied by the insurance company and no appeal was filed. As far as the award amount in M.C.O.P.No.1039 of 2011 is concerned, challenging the quantum of award, the present appeal has been filed by the transport corporation.



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3. As per the version of the claimants, the deceased lady was helping her husband in brick kiln and she was earning a sum of Rs. 10,000/- per month. The lady was aged 30 years old and hence, the minor children had claimed a compensation of Rs.25,00,000/-.

4. The tribunal after considering Ex.P .6 arrived at a finding that the deceased lady was helping her husband in the brick kiln. However, the tribunal has taken only Rs.4,500/- as monthly income and thereafter, deducted 1/3rd towards her personal expenses. The tribunal has added 30% for future prospects and hence, the monthly income was considered to be at Rs.4,000/- and the annual income was calculated as Rs.48,000/-. The tribunal arrived at the total compensation of Rs.8,16,000/-. This award is under challenge in the present appeal.

5. According to the learned counsel appearing for the appellant, there are no records to establish that the wife was employed in her husband's brick kiln and there are no records to establish that she was earning a sum of Rs.4,500/- per month. He further contended that 30% should not have been added for future prospects of the deceased in the absence of any further evidence, especially when the lady was just



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helping her husband in the brick kiln. The learned counsel for the appellant had also contended that the quantum of Rs.40,000/- towards love and affection is excessive in nature and it is liable to be reduced.

6. I have carefully considered the submissions made on the side of the appellant/transport corporation.

7. The appeal has been filed only challenging the quantum of the award. The lady admittedly was aged 30 years old and it is their contention that she was helping her husband in the brick kiln business and she was earning a sum of Rs.10,000/- per month. However, the tribunal has taken only Rs.4,500/- as the monthly income and proceeded to pass an award to a tune of about Rs.8,16,000/-. Considering the fact that the future prospects have been taken only at 30% and not at 40% and for the loss of love and affection for two minor children, who have lost both their parents in the accident is just Rs.30,000/-. This Court does not find that the total award amount is either exorbitant or unreasonable. The Court has correctly applied the multiplier and therefore, this Court does not find any merits in the appeal.



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8. Hence, the Civil Miscellaneous Appeal stands dismissed. No costs.

14.03.2023

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

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To

1.The Motor Accident Claims Tribunal,
Additional District & Sessions Court /
EC Act Special Court,
Thanjavur.

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



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R.VIJAYAKUMAR ,J.

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Order made in
C.M.A(MD)No.950 of 2017

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