IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **24.06.2024**

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1655 of 2016
and
C.M.P.No.12638 of 2016
and
Cros. Obj. No.39 of 2023

C.M.A.No.1655 of 2016:

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Vellore. ... Appellant

Vs.

1.Rani
2.Sujatha
3.Navinitha
4.Anitha
5.Ramu
6.Lakshmi ... Respondents

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Award and Decree dated 30.09.2015 made in M.C.O.P. No.141 of 2014 on the file of the Motor Vehicle Claims Tribunal, Special District Court, Krishnagiri.

For Appellant : Mr.S.S.Santhosakumar

For Respondents : Mr.SP.Yuaraj

Cros. Obj. No.39 of 2023:

1.Rani
2.Sujatha
3.Navinitha
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6.Lakshmi ... Appellants

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
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PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Award and Decree dated 30.09.2015 made in M.C.O.P. No.141 of 2014 on the file of the Motor Vehicle Claims Tribunal, Special District Court, Krishnagiri.

For Appellant : Mr.SP.Yuaraj

For Respondents : Mr.S.S.Santhosakumar

COMMON JUDGMENT

This appeal has been filed by the Transport Corporation, challenging the quantum of compensation awarded by the Tribunal. The respondents / claimants have also preferred cross appeal, seeking for enhancement of compensation. The Tribunal under the impugned award has directed the

Transport Corporation to pay the respondents / claimants a total compensation of Rs.14,50,200/- together with interest at 7.5% per annum as detailed hereunder:

Heads	***Amount awarded by the Tribunal in Rs.***
Loss of Income	10,53,000
Transportation	5,000
Damages to clothing	2,200
Funeral expenses	20,000
Loss of consortium	70,000
Loss of love and affection	3,00,000
Total	**14,50,200**

2. According to the Transport Corporation, the Tribunal has erroneously fixed the notional monthly income of the deceased at Rs.9,000/- without any supporting evidence. They have also contended that the compensation awarded by the Tribunal under various other heads is also excessive and it has to be reduced.

3. On the other hand, the respondents / claimants who have filed Cross Appeal have contended that the compensation awarded by the Tribunal is low and it has to be enhanced. According to them, the Tribunal

has erroneously failed to award compensation towards loss of future prospects to which they are legally entitled to as per the settled law. They have also contended that the compensation awarded by the Tribunal under various other heads is also low and it has to be enhanced.

4. The Tribunal under the impugned award has assessed the age of the deceased at 49 years based on the postmortem certificate, which has been marked as Ex.R2. However, the learned counsel for the Transport Corporation would contend that in the claim petition, the respondents / claimants had disclosed the age of the deceased at 44 and in the F.I.R. it has been disclosed as 52 years. Admittedly, the deceased was illiterate and he was working as a mason and the respondents / claimants have made a claim disclosing that he was working as a mason at the time of the accident. No documentary evidence has been produced by either the appellant Transport Corporation or the respondents / claimants before the Tribunal to prove the age of the deceased. The only evidence available on record to prove the age of the deceased is the postmortem report which discloses that the deceased was aged 49 years at the time of the accident. Only based on the evidence available on record, the Tribunal has rightly fixed the age of the deceased at

49 years.

5. Therefore, this Court is not interfering with the assessment made by the Tribunal under the impugned award. Though the respondents have filed separate Cross Appeal in this appeal filed by the Transport Corporation, seeking for enhancement of compensation on the ground that the Tribunal has not awarded any compensation towards loss of future prospects which the respondents / claimants are legally entitled to, this Court is not granting any enhancement to the respondents / claimants for the following reasons:

a) The overall compensation awarded by the Tribunal to the respondents / claimants at Rs.14,50,200/- as detailed supra is a just compensation and cannot considered to be inadequate as claimed by the respondents / claimants in the Courts below;

b) The notional monthly income fixed by the Tribunal for the deceased at Rs.9,000/- for an accident that had happened in the year 2014 that too when no documentary evidence has been produced to substantiate the same and no documentary evidence has also been produced to prove that the deceased was mason at the time of the accident, the fixation of notional monthly income of the deceased at Rs.9,000/- may be on a higher side as rightly contended by the appellant Transport Corporation in this appeal;

c) The fixation of the notional monthly income of the deceased at Rs.9,000/- which is on the higher side is set off by the non award of compensation towards loss of future prospects to the respondents / claimants as per settled law;

d) The compensation awarded by the Tribunal under various other heads cannot also be considered to be excessive or inadequate as claimed by the respective parties in this appeal;

e) The overall compensation of Rs.14,50,200/- directed to be paid by the appellant Transport Corporation to the respondents / claimants is a just compensation which does not call for any interference by this Court.

6. For the foregoing reasons, there is no merit in both the appeal filed by the Transport Corporation as well as by the respondents / claimants. Accordingly, both, appeal as well as cross objection filed by the respondents / claimants are dismissed.

7. The appellant Transport Corporation is directed to deposit the award amount, deducting the amount already deposited, if any, together with interest at the rate of **7.5%** per annum from the date of the claim petition till the date of deposit and cost to the credit of **M.C.O.P. No.141 of 2014** on the file of the **Motor Vehicle Claims Tribunal, Special District Court, Krishnagiri**, within a period of **four weeks** from the date of receipt of a copy of this judgment.

8. The claimants are permitted to withdraw the said amount, once it is deposited by the Transport Corporation, by filing an appropriate application before the Tribunal. On such application being made, the Tribunal shall transfer the amount lying to the credit of **M.C.O.P. No.141 of 2014** to the bank account of the claimants directly through RTGS, within a period of **one week** thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

24.06.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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ABDUL QUDDHOSE. J.,

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To

1. The Motor Vehicle Claims Tribunal, Special District Court, Krishnagiri

2. The Section officer, Record Section, High Court of Madras.

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and
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