



C.M.A.No.1635 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE RMT. TEEKAA RAMAN

C.M.A.No.1635 of 2021

and

C.M.P.No.8668 of 2021

The Managing Director,
The Tamil Nadu State Transport Corporation,
Bye Pass Road,
Madurai - 625 010.

...

Appellant

Vs.

1.Gopalsamy Duraisamy
2. Minor.Suthikson
3.Minor.Pranav
(Minor respondents 2 & 3 rep.by their Father and Guardian
of the 1st respondent)
4. P.Thamilaasan
(since the 4th respondent is the driver of the appellant
Transport Corporation and notice may be dispensed with
as no claim against him)

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Respondents

PRAYER: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 20.02.2020 in M.C.O.P.No.593 of 2018, on the file of the Motor Accidents Claims Tribunal, (Special District Judge) at Tiruppur.



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For Appellant : Mr.G.Ramar
For Mr.K.Sundalaiyandi
For R1 to R3 : Mr.M.Balaji Thirumorthy
For R4 : No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the respondent-Tamil Nadu State Transport Corporation challenging the award passed by the learned Special District Judge, Tiruppur (Motor Accident Claims Tribunal) in M.C.O.P.No.593 of 2018 on the ground of quantum.

2. For the sake of convenience, the parties are referred to as per their rank in the claim petition.

3. On the point of quantum, both the parties are heard. The factum of the accident, the manner of the accident and the rash and negligent driving on the part of the driver of the first respondent's vehicle, having remained unchallenged, are hereby confirmed.

4. Before the Tribunal, the first claim petitioner examined himself as P.W.1 and Ex.P1 – First Information Report, Ex.P2 Death Certificate and Ex.P3 L.R.certificate and Ex.P4 Post-mortem report, Ex.P5 – charge sheet have been marked. As per Ex.P8-salary certificate marked through PW3, the deceased was working as a Tailor at Mithra Knits Company, Tirupur and earning a sum of Rs.16,000/- per month. No contra evidence



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has been adduced on the side of the respondent to disprove the same.

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5. Taking into consideration, the nature and place of avocation, the trial Court fixed the notional monthly income of the deceased as Rs.10,500/- as the accident is of the year 2017. It appears that in Ex.P8-salary certificate, it was mentioned that the deceased was earning Rs.16,000/- per month. However, the trial Court has taken only Rs.10500/- per month as notional income of the deceased. Taking into consideration the age of the deceased as 33 years, multiplier 16 was adopted as per [Sarala Verma and Others Vs. Delhi Transport Corporation and another], As per the decision of the Apex Court in the case of National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TN MAC 601), 40% future prospectus has to be added. P.W.3 who is the employer of the deceased person has deposed that the deceased was working in Mithra Knits Company, Tirupur and the salary certificate was marked as Ex.P8.

6. In view of the above, I find that the notional income fixed by the Tribunal at Rs.10500/- is just and reasonable and other deductions are proper. Further, the compensation awarded by the trial Court under the conventional heads are also in accordance with the ratio laid down by the Hon'ble Supreme Court. Hence, I find that the award passed by the



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Tribunal is just and fair and does not warrant any interference at this appellate stage.

7. Accordingly, this Civil Miscellaneous Appeal is dismissed confirming the award passed by the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

(ii) The order passed by the Tribunal is upheld.

(iii) The appellant-Transport Corporation is directed to deposit the entire amount awarded by the Tribunal together with costs and interest at the rate of 7.5% per annum and if not entirely deposited, the same be deposited after deducting the amount already deposited and the amount be deposited to the credit of M.C.O.P.No.593 of 2018 on the file of the Motor Accidents Claims Tribunal, (Special District Judge), Tiruppur within a period of twelve weeks from the date of receipt of a copy of this order.

(iv) On such deposit, the first claim petitioner is permitted to withdraw his share of the award amount, after adjusting the amount, if any already withdrawn, on the basis of apportionment fixed by the Tribunal, in the manner known to law.



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(v) The Tribunal is directed to deposit the share of the minor claim petitioners 2 & 3 in any one of the Nationalised Bank, till the minors attain majority. The first claim petitioner is permitted to withdraw the accrued interest once in three months.

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Index:Yes/No

Speaking Order:Yes/No

To

1.The Motor Accidents Claims Tribunal,
(Special District Judge),Tiruppur

2.The Section Officer,
V.R.Section, High Court, Madras.

Note:-

I find that in the order of the lower Court, the index was not properly filed. While there are more than 17 documents have been filed before the trial Court, it was not properly tabulated with regard to the number of documents filed before the trial Court and hence explanation be called for from the Special District Judge, Tiruppur as to why such lapse has occurred resulting in unnecessary exercise to be issued by the High Court.

RMT.TEEKAA RAMAN,J.,



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Judgment in
C.M.A.No.1635 of 2021 and
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