



C.M.A(MD)No.891 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.891 of 2023

and

C.M.P(MD)No.9780 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation,
Coimbatore,
Tiruppur.

... Appellant

Vs.

1. Muralivarma
2. Iswarya
3. Akshaya
4. Mythili
5. The Manager,
The New India Assurance Company Limited,
Office at D.No.43-A-2, Juminade Road,
Opposite to B.S.N.L. Office,
Near Post Office,
Tiruchirappalli Canton.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the award and decree made M.C.O.P No.118 of 2019 dated 20.01.2023 on the file of the Motor Accident Claims Tribunal/Additional Sub Court, Kumbakonam.



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For Appellant : Mr.P.Prabhakaran
For R-1 to R-3 : Mr.A.S.Mathiyalagan
For R-4 : No appearance
For R-5 : Mr.N.Dilip Kumar

JUDGEMENT

The Transport Corporation has preferred this appeal to set aside the award and decree made in M.C.O.P No.118 of 2019 dated 20.01.2023 on the file of the Motor Accident Claims Tribunal/Additional Sub Court, Kumbakonam.

2. It is a case of fatal. The contention of the Transport Corporation is that the claimants have filed only Diploma certificates and have not filed any evidence to prove about the deceased's employment. Without any evidence the Tribunal had come to the conclusion that the deceased was employed and had fixed the salary as Rs.10,000. This Court is of the considered opinion that the deceased is in possession of diploma certificate and hence the Tribunal had come to the conclusion that the deceased would have been gainfully employed and had fixed the notional income as Rs.10,000/-. Generally, without any proof of



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employment or salary details, the notional income would be fixed as Rs. 8,000/-. When the claimant's contention is that he deceased was running Browsing Centre, then the deceased ought to have filed Income-Tax Returns or GST returns, if that is available then income shall be fixed as per Returns, but the same is not produced. Therefore, this Court is of the considered opinion that if the notional income is fixed as Rs.9,000/-, the same would be appropriate.

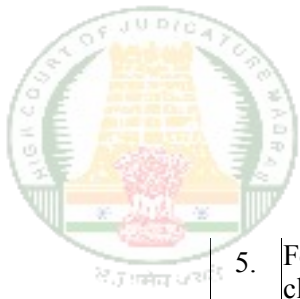
Monthly salary is Rs.9,000/-
25% future prospectus Rs.2,250/-
= Rs.11,250
Annual income is = Rs.11,250 x 12 = Rs.1,35,000/-
Personal expenses 1/3 Rs.1,35,000/- @1/ 3 = Rs.45,000/-

Multiplier 14 is to be applied
Rs.45,000 x 14 = Rs.6,30,000/-

3. Accordingly, the claimants are entitled for compensation

as follows:

S. No.	Description			Award confirmed / enhanced / granted
1.	For loss of income	Rs.14,00,000/-	Rs.6,30,000/-	Reduced
2.	For Funeral Expenses	Rs. 16,500/-	Rs. 16,500/-	Confirmed
3.	For loss of estate	Rs. 16,500/-	Rs. 16,500/-	Confirmed
4.	For Consortium for the 1 st claimant	Rs. 44,000/-	Rs. 44,000/-	Confirmed



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5.	For Filial consortium for the claimants 2 & 3	Rs. 88,000/-	Rs. 88,000/-	Confirmed
	Total	Rs.15,65,000/-	Rs.7,95,000/-	

4. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The claimants are entitled to a sum of Rs.7,95,000/-as compensation with interest at 7.5% p.a., from the date of claim petition till the date of realization along with costs. The Transport Corporation is directed to deposit the compensation amount, less the amount already deposited, if any, within a period of Eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimants are permitted to withdraw the same with accrued interests and costs as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. No Costs.

04.03.2024

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

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To

1. The Motor Accident Claims Tribunal/
Additional Sub Court,
Kumbakonam.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Order made in
C.M.A(MD)No.891 of 2023**

04.03.2024