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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:05.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1237 of 2023

1. Rajapandian

2. Pitchaimani

3. Jeyageetha,

4. Gunaradha

.. Appellants

Vs.

The Managing Director,
State Express Transport Corporation,
Pallavan Salai,
Chennai.

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to call for records relating to the award and decree, dated 29.06.2018 passed in M.C.O.P.No. 49 of 2017 on the file of the Additional District and Sessions Court Theni at Periyakulam, Theni District and set aside the same thereby modifying the award by enhancing the compensation as prayed for by the claimants in the original petition before the Tribunal.

For Appellants : Mr.P.Sivachandran

For Respondent : Mr.P.Prabhakaran



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JUDGEMENT

The claimants have preferred this appeal for enhancing the award, dated 29.06.2018 passed in M.C.O.P.No.49 of 2017 on the file of the Additional District and Sessions Court Theni at Periyakulam, Theni District.

2. It is a case of fatal. The claimants are son and daughters of the deceased. The contention of the claimants is that the deceased was running Transport Corporation, but the Tribunal has fixed only Rs.13,335/- as monthly income. The deceased was earning more than Rs.2 lakhs in the Transport business. The said contention was vehemently opposed by the Learned Counsel appearing for the Transport Corporation and submitted that even according to the claimants the deceased was doing only agricultural activities. The son of the deceased was taking care of the Transport Corporation business. Since the son is still running Transport business, there is no loss of income from the Transport business. Furthermore, only the claimants have filed Income tax returns for the assessment year 1999-2000, 2000-2001, 2001-2002 and 2002-2003 which are marked as Ex.A.16 to A.19. The accident was happened in the year 2016 and the claimants have not marked any Income tax returns for the year 2016.



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3. After hearing rival submissions, this Court is of the considered opinion that even as per the claimants the deceased was earning only from agricultural activities. Further the fact remains that the son of the deceased is carrying transport business and hence, there is no loss of income to the family. Moreover, the wife of the deceased is not alive. The sons and daughters are claimants herein and they had attained majority and they are not dependent on the income of the deceased. By taking all these facts into consideration, the monthly salary fixed by the Tribunal is appropriate and the Tribunal had granted fair and just compensation.

4. As far as compensation under loss of love and affection the Tribunal has granted Rs.1,00,000/- and this Court is inclined to enhance the same as Rs.1,40,000/- since there are four claimants.



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5. Accordingly, the claimants are entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For Loss of income	Rs.8,00,100/-	Rs.8,00,100/-	confirmed
2.	For Medical Expenses	Rs.2,93,775/-	Rs.2,93,775/-	confirmed
3.	For Love and Affection	Rs.1,00,000/-	Rs.1,40,000/-	enhanced
4.	For Transport Expenses	Rs. 25,000/-	Rs. 25,000/-	confirmed
5.	For Funeral expenses	Rs. 5,000/-	Rs. 5,000/-	confirmed
Total		Rs. 12,23,875/-	Rs.12,63,875/-	

From the total compensation of Rs.12,23,875/- this Court is enhancing a sum of Rs.12,63,875/-as compensation.

6. Accordingly, this Civil Miscellaneous Appeal is partly allowed.

This Court is enhancing the compensation of Rs.12,63,875/-from the compensation granted by the Tribunal Rs.12,23,875/-. The Transport Corporation is directed to deposit the entire compensation amount, within a period of 12 weeks from the date of receipt of a copy of the order with 7.5% interest from the date of filing the petition till the date of realization along with Costs, if not deposited. On such deposit being made, the 1 to 3 claimants are entitled to withdraw a sum of Rs.3,10,000/-, each and the 4th claimant is entitled



to withdraw a sum of Rs.3,33,875/-along with interest and costs. The claimants are directed to pay the balance Court fee or the same shall be deducted from the amount before disbursing.

05.03.2024

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

To

1. The Additional District and Sessions Court,
Theni at Periyakulam,
Theni District.
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.1237 of 2023**

05.03.2024