

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.1655 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Division I,
Villupuram.

... Appellant (Respondent)

Vs.

1.M.Amirtham
2.Minor.M., Leena
3.Minor.M.leevan
(Respondents 2 & 3 are rep.by their
mother and next friend M.Amirtham)

... Respondents (Petitioners)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree passed by the Motor Accident Claims Tribunal, Fast Track Court No.II, Chennai in M.C.O.P.No.447 of 2008 dated 26.07.2011 for awarding compensation.

For Appellant : Mr.P.Paramasivados

For Respondents 1 to 3 : Mr.T.G.Balachandran

JUDGMENT

This appeal has been preferred by the Transport Corporation against the award of Rs.7,24,932/- as compensation for the death of one Mohan, aged about 32 years, a mason alleged to be earning about Rs.7,500/- in the accident occurred on 27.12.2007.

2.Heard Mr.P.Paramasivados, learned counsel appearing for the appellant and Mr.T.G.Balachandran, learned counsel appearing for the respondents/claimants.

3. Though the learned counsel for the appellant very strenuously argued that the determination of Rs.5,000/- as monthly income is on the higher side, Mr.T.G.Balachandran, learned counsel appearing for the respondents would submit that the amount determined is low. He relied upon the Judgment of the Honourable Supreme Court in Syed Sadiq etc. Vs. Division Manager, United India Insurance Company Limited reported in 2014 (1) TN MAC 459, determined a sum of Rs.6,500/- as monthly income for a vegetable vendor, who sustained injury in the accident occurred in 2008. Considering the said Judgment and also taking into consideration, the accident occurred in December 2007, this Court redetermines the monthly income of Rs.6,000/- as it was very difficult to get manual labourer even in the year 2007. The deceased was aged about 32 years at the time of the accident and therefore, 50% is required to be added towards future prospects, as per the Judgment of the Honourable Supreme Court in Sarla Verma and Others vs. Delhi Transport Corporation and another reported in 2009(6) Supreme Court Cases 121 and Santhosh Devi vs. National Insurance Company Limited reported in 2012(6) SCC 421. Hence the loss of income is determined as follows:

$$\text{Rs.6,000/-} + 50\% = \text{Rs.9000/-}$$

4. As per the Judgment of the Hon'ble Supreme Court in Sarla Verma and Others vs. Delhi Transport Corporation and others reported in 2009 2 TAN MAC P 9 1/3 has to be deducted as the size of the family is 3 and the loss of income is determined as follows :

$$\text{Rs.9,000/-} - 1/3 = \text{Rs.6,000/-}$$

The appropriate multiplier for the age of the deceased viz., 32, is 16 and the loss of income is determined as follows:

$$\text{Rs.6,000/-} + 50\% - 1/3 \times 12 \times 16 = \text{Rs.11,52,000/-}$$

5. The Tribunal awarded only a sum of Rs.20,000/- towards loss of consortium to the first respondent, who lost her husband at the young age 25. Therefore, this Court is inclined to follow the Judgment in 2013 3 CTC 883 in Rajesh and Others v. Rajbir Singh & Others and Rs.1,50,000/- is awarded as loss of husband at any age will be painful and it cannot be compensated. Therefore, taking into consideration the psychological, physical and mental agony of the first respondent, this Court is inclined to award a sum of Rs.1,50,000/- to the first respondent. Similarly, second respondent was 6 years old and third respondent was 14 years old, who lost their father's love, care and guidance and therefore, in an endeavour to

compensate the same, Rs.1,00,000/- is awarded towards love and affection. Only a sum of Rs.5,000/- was awarded towards funeral expenses and no amount was awarded towards transportation. Hence, this Court awards a sum of Rs.25,000/- towards transportation and funeral expenses.

6. In view of that the amount awarded by the Tribunal is hereby enhanced from Rs.7,24,932/- to Rs.14,27,000/- is rounded off Rs.14,30,000/- in the appeal filed by the appellant / Transport Corporation in the following manner:-

Loss of income	Rs. 11,52,000
Loss of consortium	
(first respondent)	Rs. 1,50,000
Loss of love and affection	Rs. 1,00,000
(respondents 2 & 3)	
Transportation &	
Funeral expenses	Rs. 25,000
Total	Rs. 14,27,000

7. The award of interest at the rate of 7.5% per annum remains un-altered. The respondents/claimants are directed to deposit an additional court fee within a period of six weeks from the date of receipt of a copy of this order.

8. Though the appeal has been preferred by the Appellant/Transport Corporation, against the award of Rs.7,24,932/-, this Court, suo motu enhances the compensation to a sum of Rs.14,30,000/-. This Court on re-appreciating the evidence on record and following the Judgment of the Hon'ble Supreme Court in Swaran Singh invoking under Order 41 Rule 33 of C.P.C., enhances the compensation from Rs.7,24,932/- to Rs.14,27,000/- rounded off Rs.14,30,000/-.

9. The appellant/Transport Corporation is directed to deposit the entire award amount along with interest and costs on or before 29.09.2015, after deducting the amount already deposited, if any, failing which, the Chairman cum Managing Director and Financial

Adviser cum Chief Accountant Officer of the Corporation shall appear before this Court on 30.09.2015. On such deposit being made, the first respondent/wife is permitted to withdraw a sum of Rs.7,00,000/- along with proportionate interest and cost. The balance amount has to be shared equally by the respondents 2 and 3/minors, their shares to be deposited bearing account in Indian Bank, High Court, Branch, Madras. The minors' of the first respondent/mother is permitted to withdraw the interest in every two months.

10. In the result, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kkd

To

The Motor Accident Claims Tribunal,
Fast Track Court No.II,
Chennai

Copy To

The Manager,
Indian Bank,
High Court Branch,
Madras

+1cc to Mr.P.Paramasiva Doss, Advocate, S.R.No.38238
+1cc to Mr.T.G.Balachandran, Advocate, S.R.No.38660

C.M.A.NO.1655 of 2014
and
M.P.No.1 of 2014 and 1 of 2015

LRS (CO)
CA(27/08/2015)

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