

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.10.2015

C O R A M

THE HONOURABLE Mr.JUSTICE B.RAJENDRAN

C.M.A. No. 2479 of 2011

1.Rayar
2.Selvambal

... Appellants/Claimants

v.

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
182, Shokkerpettai Nadu Theru
Kancheepuram - 631 502 ... Respondents/Respondents

Prayer : Appeal filed under Section 173 of the Motor Vehicles Act 1988 against the Judgment and decree dated 28.2.2011 made in M.C.O.P.No.1363 of 2008 on the file of the Motor Accidents Claims Tribunal cum 1st Additional District Judge, Salem.

For Appellants : Mr.C.Kulanthaivela

For Respondent : Emr.S.Sairaman

J U D G M E N T

The appellants before this Court are the claimants and the appeal is against the award passed by the Motor Accidents Claims cum 1st Additional District Judge, Salem. in M.C.O.P.No.1363 of 2008 dated 28.2.2011.

2. The appellants/claimants are the legal heirs of Balakrishnan, who met with an accident on 14.03.2008 at about 8.40 p.m. at Salem to Attur Main Road, near Chinnagoundapuram Road.

3. According to the appellants/claimants, on 14.3.2008 around 8.40 p.m., the deceased was travelling in TVS 50 bearing Registration No.TN-31/O-2623 from Ayyothiappattinam and at that time, a TNSTC Bus bearing Registration No. TN 21 N 1041 was driven by its driver in a rash and negligent manner and dashed against the Motor cycle in which, the deceased Balakrishnan sustained head injury and died. Then he was 23 years old and was a Machine Operator in Lakshmi Machine Works Ltd., Coimbatore

and earning Rs.10,000/- per month. The learned counsel would also submit that since the deceased died due to the heard injury sustained in the accident the petitioners are finding it difficult to manage for their livelihood. Though the claimants had claimed a sum of Rs.15,00,000/- as compensation, the Tribunal has awarded only a sum of Rs.4,10,000/-. Accordingly, the learned counsel for the appellants-claimants would pray for enhancement of the same.

4. The said claim application was resisted by the Transport Corporation/respondent on various grounds including negligence and quantum. However, the Motor Accidents Claims Tribunal, Salem found that the driver of the respondent was negligent in causing the accident and fixed the liability as such on the respondent.

5. While computing the compensation, the Tribunal found that the deceased died as a bachelor leaving behind his parents as his dependents. Since the deceased died as a bachelor, for applying proper multiplier, age of the mother is to be taken into account. As per the judgment of the Hon'ble Supreme Court reported in 2009(6) SCC 121 (Sarala Verma and others v. Delhi transport Corporation and another), for the age group between 36 to 40 years, the proper multiplier to be applied is 15. Accordingly, the multiplier of 15 is taken into account. A Since in this case the age of the mother of the deceased is 40 years as per the legal heir certificate, the multiplier of 15 is taken into account. Accordingly, total sum of Rs.4,05,000/- (Rs.2,250x12x15=Rs.4,05,000) is awarded under the Loss of dependency to the appellants/claimants. Further, Motor Accidents Claims Tribunal has awarded a sum of Rs.5,000/- for funeral expenses. Thus in toto, the Motor Accidents Claims Tribunal has awarded a sum of Rs.4,10,000/-.

6. Aggrieved by the award of the Tribunal the claimants have preferred the present appeal.

7. Heard both sides.

8. Learned counsel appearing for the appellants would submit that at the time of the accident the deceased was working as a Machine Operator in Lakshmi Machine Works Ltd., Coimbatore and earned Rs.10,000/- per month and was studying in Annamalai University correspondence course and the ID card is marked as Ex.P4 and the ID card issued by Lakshmi Machine Works Ltd., is marked as Ex.P5 and attended interview for the selection of CRPF and the interview card is marked as Ex.P6 and died leaving behind the appellants as his legal heirs. Further, the learned counsel submitted that the Tribunal ought to have deducted 1/3rd for the personal expenses of the deceased instead they have deducted 50%, which is erroneous. The learned counsel

also submitted that as per the principles laid down in 2009(2) TN MAC 647 (Sarala Verma and others v. Delhi Transport Corporation and another), if the deceased is aged between 36 to 40 years, the proper multiplier to be applied is 16. Therefore, the tribunal is not correct in applying the multiplier as 15 and hence prays for enhancement of the compensation.

9. Learned counsel for the respondent/Transport Corporation would submit that the claim made by the appellants is exorbitant and no income proof has been filed. The Transport Corporation also admitted that was studying in Annamalai University correspondence course and he also attended interview for the selection of CRPF.

10. Considering all these aspect, I am inclined to increase the income of the deceased as Rs.6,000/- per month and deducting 1/3 for his personal expenses a sum of Rs.6,000/- is taken as monthly contribution to his family. Applying the principles laid down in 2009(2) TN MAC 647 (Sarala Verma and others v. Delhi Transport Corporation and another), if the deceased is aged between 36 to 40 years, the proper multiplier to be applied is 16. Therefore, the tribunal is not correct in applying the multiplier as 15. Accordingly, total sum of Rs.7,68,000/- (Rs.4,000x12x16=Rs. Rs.7,68,000) is awarded under the head of loss of income. Further, Since the the court below awarded under the head of loss of love and affection and funeral expenses are very low. Hence, the judgment passed by the Court below is modified as follows:-

1. Loss of income	: Rs.7,68,000/-
3. Loss of Love & affection (Rs.50,000/- x 2)	: Rs.1,00,000/-
4.Funeral Expenses	: Rs. 15,000/-

Total	Rs.8,83,000/-
	Rounded of Rs.9,00,000/-

with interest at 7.5% per annum.

11. Accordingly, the respondent/Transport Corporation is directed to deposit the entire compensation amount of Rs.9,00,000/- (Rupees Nine Lakhs only), less the amount already deposited, if any, to the credit of M.C.O.P.No.1363 of 2008 on the file of the Motor Accidents Claims Tribunal cum 1st Additional District Judge, Salem, within a period of eight weeks from the date of receipt of a copy of this order along with an interest at the rate of 7.5% from the date of petition. It is needless to state that on such deposit being made, the appellants/claimants are entitled to withdraw the entire compensation amount along with interest, less the amount already

withdrawn, if any, on making out a proper application before the court below.

With the above modification, this Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Asst.Registrar (CCC)

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Sub Asst. Registrar

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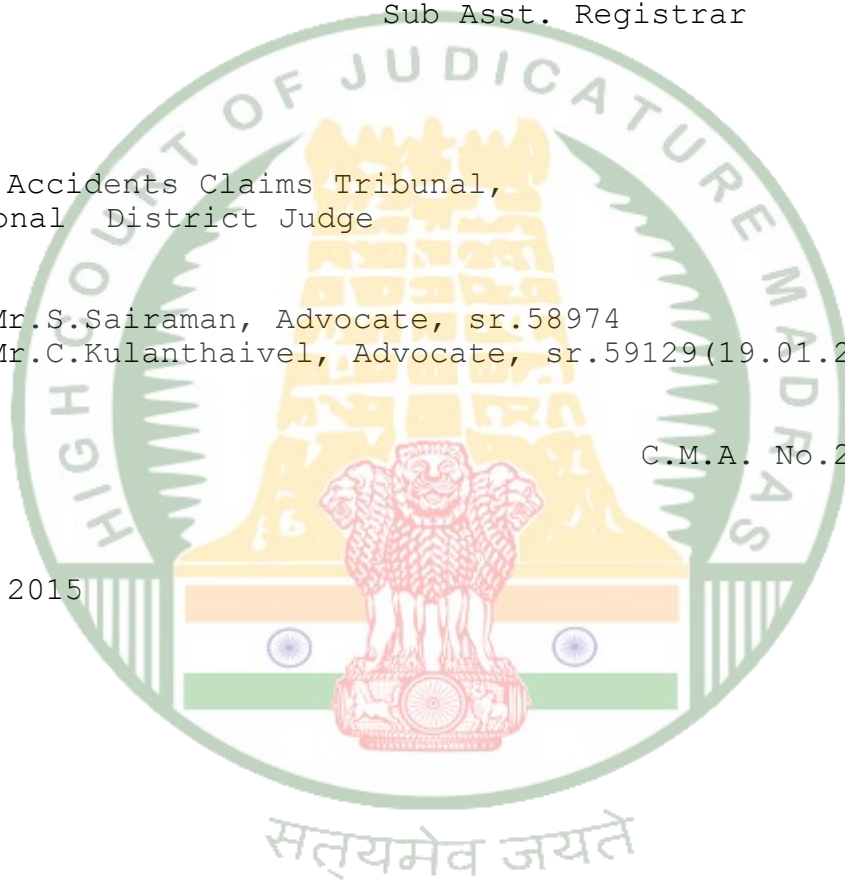
The Motor Accidents Claims Tribunal,
1st Additional District Judge
Salem

+1 cc to Mr.S.Sairaman, Advocate, sr.58974

+1 cc to Mr.C.Kulanthaivel, Advocate, sr.59129(19.01.2016)

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