

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.2201 of 2009

1.Devaki
2.Sarjoja

... Appellants/Claimants

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division,
Villupuram.

2.Jeyaraman ... Respondents/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act 1988 against the order and judgment dated 20.03.2007 made in M.C.O.P.No.607 of 2002 on the file of the Motor Accident Claims Tribunal, District Court, Thiruvannamalai.

For Appellants : Mr.F.Terry Chellaraja
For Respondents: Mr.S.S.Swaminathan for R1

JUDGMENT

The appeal has been preferred by the claimants against the award of Rs.1,89,000/- for the death of one Munusamy, the first appellant's husband in the accident, which occurred on 29.12.2001. There is no appeal by the Transport Corporation and therefore, the question of negligence is not gone into.

2. Heard the learned counsel for the parties and perused the records. The only question is to be decided as to whether the compensation awarded is adequate or not.

3. The deceased was stated to be working as a Mason, aged about 45 years and earning about Rs.3,000/- per month. However, the Tribunal determined the income at Rs.1,750/- per month and adopting multiplier 13, awarded a sum of Rs.1,82,000/- towards loss of dependency. Including other amounts, a sum of Rs.1,89,000/- was awarded as compensation. Even in the year 2001, it is very difficult to get a mason for a sum of Rs.2,500/- p.m. and he would earn more. Therefore, this Court re-determines the monthly income at Rs.2,500/-.

Following the judgment of the Honourable Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TN MAC 1, 30% to be added towards future prospects and if it is done the monthly income would be Rs.2,500+30%=3,250/-. 1/3rd is required to be deducted towards personal expenses and the loss of income would be Rs.2167/-.

4. As per the judgment of the Honourable Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TN MAC 1, the appropriate multiplier for the age of 45 is 14 and the loss of income is determined as follows:

$$2167 \times 12 \times 14 = 3,64,056/-.$$

5. Rs.5,000/- awarded by the Tribunal towards loss of consortium to the 1st appellant is too low. Therefore, following the judgment of the Honourable Supreme Court in Rajesh and others Vs. Rajbir Singh and others reported in 2013(3) CTC 883, Rs.1,00,000/- is awarded to the 1st appellant towards loss of consortium. Towards loss of love and affection to the daughter viz., the 2nd appellant, no amount was awarded and therefore, a sum of Rs.25,000/- is awarded. Towards funeral expenses and transportation together a sum of Rs.12,000/- is awarded. Totally, this Court awards a sum of Rs.5,01,056/-. Rounded off to Rs.5,00,000/-. The rate of interest awarded by the Tribunal at 7.5% p.a. remains unaltered.

6. This Civil Miscellaneous Appeal is partly allowed by enhancing the compensation of Rs.1,89,000/- to Rs.5,00,000/-. No costs.

7. The 1st respondent/Transport Corporation is directed to deposit the entire amount along with interest and costs, as per the modified award passed by this Court within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st appellant is entitled to withdraw a sum of Rs.3,00,000/- and the 2nd appellant is entitled to withdraw a sum of Rs.2,00,000/- with accrued interest within one week thereafter. The appellants/claimants are directed to pay the additional Court fee for the enhanced amount.

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Assistant Registrar

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Sub Assistant Registrar

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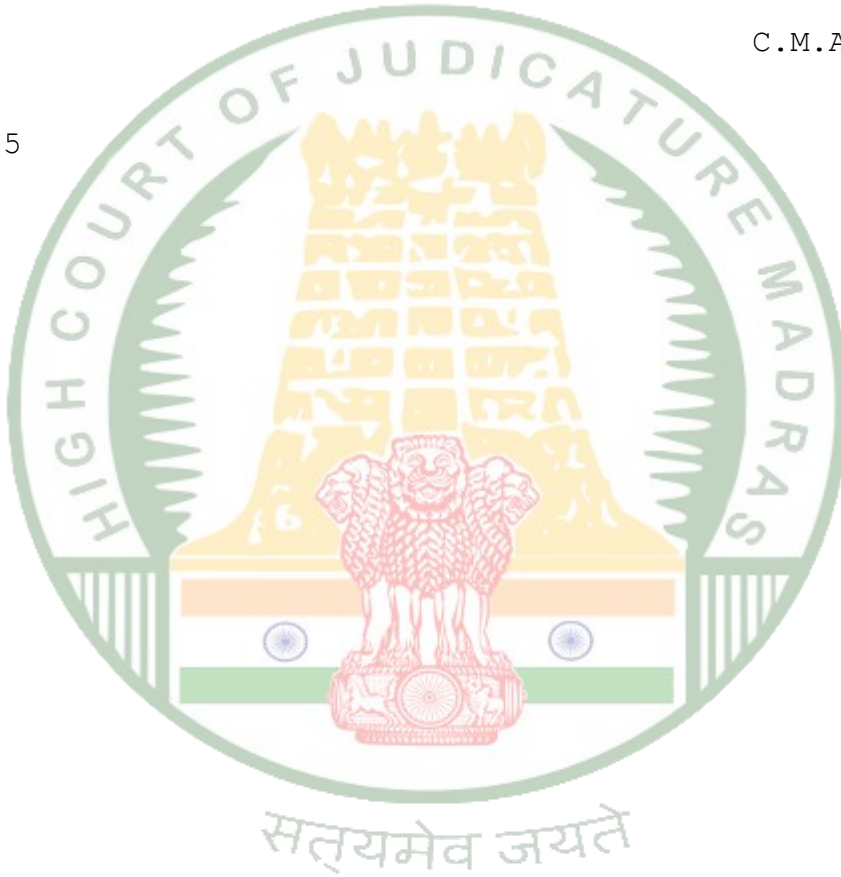
The Motor Accident Claims Tribunal,
District Court, Thiruvannamalai.

+ 1 cc to Mr.S.S. Swaminathan, Advocate SR.4217
+ 1 cc to M/s. M. Malar, Advocate Sr.4152

Copy to: The Section Officer, VR Section,
High Court, Madras-104

C.M.A.NO.2201 of 2009

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