

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.2835 of 2013

and

M.P.No.1 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation
Villupuram (Division) Ltd.,
Vellore-9.

... Appellant/Respondent

Vs.

1.M.Valarmathi
2.P.Mani

... 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, (Sub Court) Ranipet in M.C.O.P.No.153 of 2009 dated 27.06.2012 for awarding compensation.

For Appellant : Mr.G.Palani

For Respondent : Mr.C.Prabakaran

JUDGMENT

This appeal has been preferred by the Transport Corporation against the award of Rs.5,43,264/- as compensation for the death of one Sangeethalakshmi, aged about 20 years MCA., student in the accident occurred on 06.05.2009.

2.Heard Mr.G.Palani, learned counsel appearing for the appellant and Mr.C.Prabakaran, learned counsel appearing for the respondents.

3. Mr.G.Palani, learned counsel for the appellant would submit that there is no negligence on the part of the driver of the Transport Corporation, as two wheeler rider alone was responsible for

the accident. He would rely upon RW1's evidence to come to the conclusion that the accident occurred because of the rider of the two wheeler, in which the deceased was travelling as a pillion rider. Therefore, he seeks to set aside the finding, regarding the negligence. Secondly, he would submit that the amount determined as monthly income of Rs.5,850/- along with future prospectus is on the higher side and he seeks to reduce the monthly income determined by the Tribunal.

4. On the other hand, Mr.C.Prabakaran, learned counsel appearing for the respondents would rely upon the Judgment of the Apex Court reported in (2014) 11 Supreme Court Cases 178 in V.Mekala v.M.Malathi and another and seeks for enhancement of monthly income to Rs.10,000/- He would further rely upon the Judgment of this Court reported in 2013 (2) TN MAC 846, United India Insurance Co., Ltd., vs. Velumyil, wherein for the death of 19 years old, 1st Year B.E., Student, a sum of Rs.15,000/- was taken as monthly income.

5. Heard the parties and perused the records.

6. As far as the negligence aspect is concerned, the Tribunal took into the evidence of P.W.2, eye witness and also rider of the two wheeler and filing of First Information Report against the driver of the appellant/Transport Corporation and the departmental proceedings initiated against the said driver, rightly came to the conclusion that the accident occurred due to the negligence on the part of the rider of the appellant/Transport Corporation and the said finding is based on the evidence.

7. As far as the quantum is concerned, the Tribunal took monthly income at Rs.4500/- p.m. as stipulated under the Minimum Wages Act and added 30% towards future prospects and determined as Rs.5,850/- and the monthly income determined by the Tribunal is very low.

8. As rightly pointed out by the learned counsel for the respondents, this Court determined the monthly income of B.E., student as Rs.15,000/-. However, considering the difference between B.E., and M.C.A., student and the prospects of the both degrees, it is appropriate to determine the monthly income of the deceased at Rs.6,500/- which is in consonance with the Judgment of the Hon'ble Supreme Court in Syed Sadiq etc. Vs. Division Manager, United India Insurance Company Limited reported in 2014 (1) TN MAC 459, in which the Apex Court determined a sum of Rs.6,500/- as monthly income for a vegetable vendor, who sustained injury in the accident occurred on 14.02.2008. Therefore, this Court is inclined to follow the

determination made in the aforesaid judgment. Accordingly, a sum of Rs.6,500/- is taken as monthly income and 50% is added towards future prospects at Rs.9,750/- is determined as monthly income. Since the deceased was a spinster at the time of the accident, 50% is required to be deducted towards personal expenses and the loss of income would be Rs.4,875/-, is as follows:

$$\text{Rs.6,500/-} + 50\% = \text{Rs.9,750/-} - 50\% = \text{Rs.4,875/-}$$

The Tribunal was taking average age of father and mother of the deceased as 50 and 45 and applying right multiplier 13, the loss of income is determined as follows:

$$\text{Rs.6,500/-} + 50\% - 50\% \times 13 \times 12 = \text{Rs.7,60,800/-}$$

9. The parents lost their daughter and that too at the time of marriageable age and she already obtained a primary degree and was undergoing the secondary degree. It is a great loss for the parents and cannot be compensated. The parents have suffered loss of love and affection and it cannot be estimated. However, the Tribunal awarded a sum of Rs.50,000/- towards love and affection which is hereby confirmed. Rs.10,000/- awarded towards transportation is also hereby confirmed. The Tribunal awarded Rs.10,000/- towards funeral expenses and is hereby enhanced to Rs.15,000/- and Rs.6964/- awarded towards loss of medical expenses is also confirmed. A sum of Rs.8,000/- is hereby awarded towards pain and sufferings to the parents as their daughter died, two days after the accident. Therefore, a sum of Rs.5,43,264/- awarded by the Tribunal is hereby enhanced to Rs.8,52,764/- Rounded off to Rs.8,53,000/-. The rate of interest awarded by the Tribunal at 7.5% p.a. remains unaltered.

10. This Civil Miscellaneous Appeal is partly allowed by enhancing the compensation of Rs.5,43,264/- to Rs.8,53,000/- along with interest at 7.5% p.a. No costs. Consequently, connected Miscellaneous petition is closed.

11. It is represented by the learned counsel for the appellant that as per the award passed by the Tribunal, the entire award amount has already been deposited. Therefore, the Appellant is directed to pay enhanced award amount within six weeks from the date of receipt of a copy of this order. The appellant-Transport Corporation is directed to call the claimants to their office and hand over the enhanced amount to the claimants directly by way of cheques or demand drafts, as per the ratio fixed by the Tribunal, within a period of one week thereafter, failing which, the Chairman cum Managing Director and Financial Adviser cum Chief Accountant

Officer of the appellant/Transport Corporation shall appear before this Court on 20.07.2015. The claimants are directed to pay necessary additional court fee within one week from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kkd

To

1.The Motor Accident Claims Tribunal,
(Sub Court) Ranipet.

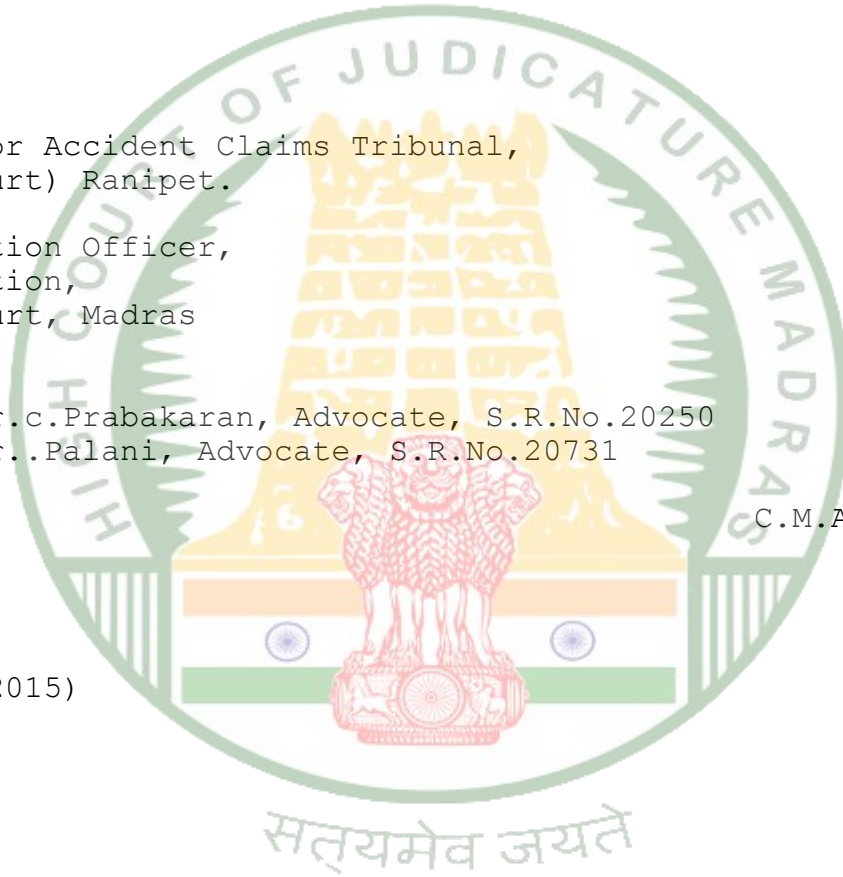
2.The Section Officer,
V.R.Section,
High Court, Madras

+1cc to Mr.c.Prabakaran, Advocate, S.R.No.20250

+1cc to Mr..Palani, Advocate, S.R.No.20731

C.M.A.NO.2835 of 2013
and
M.P.No.1 of 2013

SAI (CO)
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