



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.09.2015

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUDHAKAR**  
**AND**  
**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.M.A(MD) No.1118 of 2015

and

M.P(MD)No.2 of 2015

The Director of Information and Public Relations  
having office at Ex.Officio Additional  
Secretary to Government Information and Tourism  
(Administration) Chennai-600 009. .. Appellant/Respondent

vs.

- 1.Ms.Saranya
- 2.Mr.Srinivasan
- 3.Mr.Sathishkumar
- 4.Minor Maheswari ..Respondents 1 to 4/Petitioners 1 to 4  
D/o.Manoharan  
(minor fourth respondent is represented by her  
sister and Next friend Ms.Saranya, the  
first respondent herein)
- 5.R.Subash Chandra Bose ..5<sup>th</sup> Respondent/2<sup>nd</sup> Respondent

Prayer: This Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award, dated 30.10.2013 made in M.C.O.P.No.367 of 2013, on the file of Learned Motor Accident Claim Tribunal/Special District Judge, Trichirappalli and allow this Civil Miscellaneous Appeal.

For Appellant :Mr.M.Govindan  
Spl. Govt. Pleader

For R1 to R4 : Mr.Sudhagar Nagaraj  
For R5 :Mr.Jana J.B.Janath Ahmed

#### JUDGMENT

[Judgment of the Court was made by V.M.VELUMANI, J]

The present appeal is against the award, dated 30.10.2013, made in M.C.O.P.No.367 of 2013, on the file of the Motor Accident Claims Tribunal/Special District Judge, Trichirappalli.

2.The appellant is respondent in MCOP No.367 of 2013. The respondents 1 to 4 are the claimants, who are the legal heirs of deceased Manoharan, who died in the motor accident which took place at Trichy-Chennai Bye-pass Road near Maria Marbles, on



3. The fifth respondent is the driver of Tempo Traveller Van, belonging to the appellant, which was involved in the accident. The respondents 1 to 4 claimed a sum of Rs.18,00,000/- as compensation for the death of the deceased. The Tribunal, considering the pleadings and evidence, awarded a sum of Rs.17,53,177.20/-, as compensation.

4. Against the said award, dated 30.10.2013, the appellant has filed the present appeal.

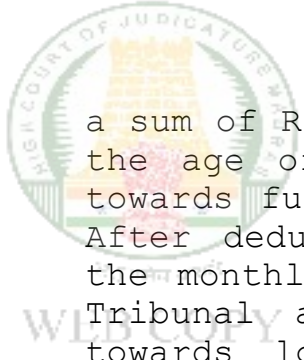
5. Facts of the case:-

On 15.02.2009, one Manoharan, Sub Inspector of Police, was on Escort duty to the Hon'ble Minister for Tamil Nadu Transport Department. He was travelling in a vehicle belonging to the Police Department, behind the car of the Minister. While he was regulating the Traffic at Trichy-Chennai Bye-pass Road, near Maria Marbles, the fifth respondent, driver of the Tempo Travel Van belonging to the appellant, had driven the said vehicle in a rash and negligent manner and dashed against the said Manoharan. He sustained severe injuries and died on the way to hospital. A case was registered in Cr.No.42 of 2009 on the file of the Traffic Investigation (North) Police, Fort Police Station, Trichirappalli. The respondents 1 and 4 and the respondents 2 and 3 are the daughters and Sons of deceased Manoharan, respectively. The said Manoharan was earning Rs.14,872/- per month. He was aged about 53 years. The accident took place only due to the rash and negligent driving of the van belonging to the appellant, by fifth respondent. Therefore, the respondents 1 to 4 claimed a sum of Rs.18,00,000/- as compensation.

6. The appellant and the fifth respondent filed separate counter statements denying the claim of the respondents in respect of the manner in which the accident took place. According to the appellant and the fifth respondent, the accident took place only due to negligent on the part of the deceased. In the Criminal case filed against the fifth respondent, his negligence was not proved beyond reasonable doubt. Therefore, they prayed for dismissal of the claim petition.

7. Before the Tribunal, the first respondent examined herself as P.W.1, one V.Rengarajan, Superintendent in the office of the Police Department, was examined as P.W.2, Mr.Parasuraman and Mr.R.Ramesh, eye witnesses, were examined as P.Ws.3 and 4. On the side of the respondents 1 to 4, five documents were marked as Exs.P.1 to P5. On behalf of the appellant one Saranya, Assistant Public Relation Officer, was examined as R.W.1, R.Prasathkumar, who was travelling in the Tempo Traveller Van belonging to the appellant, was examined as R.W.2 and the fifth respondent, the driver of the Tempo Traveller Van, was examined as R.W.3. On the side of the appellant, one document was marked as Ex.R1.

8. The Tribunal, considering the pleadings and evidence, came to the conclusion that, the accident had taken place only due to negligent driving of the van by fifth respondent. The Tribunal, based on the evidence produced by the respondents 1 to 4, came to the conclusion that the deceased Manoharan was earning



a sum of Rs.14,872/- per month, as evidenced by Ex.P4. Considering the age of the deceased, the Tribunal added 15% of the salary towards future prospects and fixed monthly income at Rs.17,102/-. After deducting  $\frac{1}{4}$  towards personal expenses, the Tribunal fixed the monthly income at Rs.12,827.10/-. By applying multiplier 11, Tribunal arrived at Rs.16,93,177.20/- ( $12,827.10 \times 12 \times 11$ ), towards loss of income. The Tribunal also granted a sum of Rs.10,000/- each to the respondents 1 to 3 and a sum of Rs.20,000/- to the fourth respondent, as she was a minor, towards loss of love and affection. Tribunal granted a sum of Rs.10,000/- towards funeral expenses. Thus, Tribunal has awarded a total sum of Rs.17,53,177.20/- ( $16,93,177.20 + 30,000 + 20,000 + 10,000$ ).

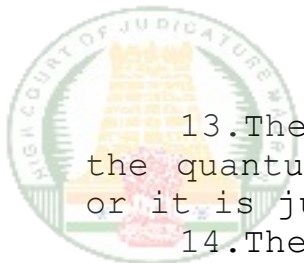
9. Against the said award, dated 30.10.2013, the appellant has filed the present appeal.

10. The learned counsel for the appellant contended that the Tribunal did not apply proper multiplier. The deceased was aged about 53 years and would have attained age of superannuation at 58 years and therefore the Tribunal ought to have applied split multiplier. The learned counsel for the appellant also contended that the amount awarded by the Tribunal is excessive and therefore, prayed for setting aside the award of the Tribunal.

11. The learned counsel for the appellant relied on the judgment of a Division Bench Order of this Court, dated 10.06.2010, made in C.M.A.No.2270 of 2003 wherein at paragraph 10, it has been observed as under:-

"10. Coming to the choice of multiplier, the Tribunal going by the Second Schedule, adopted multiplier 8. Ex.P7 is the service register of the deceased, from which, it is seen that the date of birth was 24.08.1943. In his evidence, P.W.2 has stated that the date of birth of the deceased was 24.08.1943. P.W.2 has also stated that the deceased would have attained age of superannuation at 60 years. At the time of accident I.e. On 19.05.2001, the deceased was aged 57 years 9 months. He would have continued to be in service only for a further period of two years. While so, the Tribunal was not right in adopting multiplier 8 by taking the annual loss of dependency at Rs.2,06,798/-. Adopting multiplier 8 for the entire annual income would amount to giving the entire life span of 8 years and while adopting the same annual income, the Tribunal erred in not keeping in view that the deceased would have attained the age of superannuation after the period of two years. The annual income of the deceased ought to have been taken only for the initial period of two years. Adopting multiplier 2 for the period of two years, during which the deceased would have been in service, the annual loss of dependency is calculated at Rs.5,26,668/- ( $\text{Rs.}2,63,334/- \times 2 = \text{Rs.}5,26,668/-$ )."

The learned counsel for the appellant has carefully perused the materials on record and considered the arguments of the learned counsel for the appellant and the respondent.



13. The only point for consideration in this appeal is whether the quantum of compensation awarded by the Tribunal is excessive or it is just and proper.

14. The learned Special Government Pleader appearing for the appellant contended that the Tribunal failed to take into consideration that the deceased would have retired at the age of 58 years and therefore erred in applying multiplier 11. The Tribunal ought to have applied split multiplier and should have taken into consideration only 50% of the salary, after 58 years. He relied on the judgment of the Division Bench of this Court, dated 10.06.2010 made in C.M.A.No.2270 of 2003. The said contention of the learned counsel for the appellant is not correct in view of the judgment of Hon'ble Apex Court reported in 2014(2) TNMAC 546 (SC) (*Saraladevi and others vs. Divisional Manager, Royal Sundaram Alliance Ins. Co. Ltd., and another*) wherein at paragraph 10, it has been held as follows:-

"10. In our considered view, the High Court has erred in not considering the principles laid down in the case of Sarla Verma and Ors. (Supra), in so far as deduction of  $1/4^{th}$  of the monthly income of the deceased to arrive at the multiplicand and reducing the Compensation by adopting the Split up Multiplier."

15. The Hon'ble Apex Court held that applying split multiplier is not proper. The correct multiplier is as per the Principle laid down in Sarla Verma. In view of the judgment of the Hon'ble Apex Court, multiplier adopted by the Tribunal is correct. The Tribunal has considered the age, income and number of dependents of the deceased and arrived at just compensation, as per law. Therefore, there is no infirmity in the said award and there is no reason warranting interference by this Court.

16. In view of the above observation, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub-Assistant Registrar

To

The Special District Judge

The Motor Accidents Claims Tribunal, Tiruchirappalli.

+One cc to Mr.N.Sudhagar Nagaraj, Advocate, SR.No.56463

+One cc to the Special Government Pleader, SR.No.56943

Copy to:-

The Section Officer, V.R.Section,

Madurai Bench of Madras High Court, Madurai