

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A.No.1532 of 2016

Cros.Obj.No.62 of 2016 and CMP.No.11676 of 2016

The Managing Director,
T.N.S.T.C., Vellore-09

... Appellant in CMA.No.1532/16
... Respondent in Cr.Obj.No.62/16

vs.

1.Geethakumari
2.R.Rajagopal

... Respondents in CMA.No.1532/16
Cross Objectors in Cr.Obj.No.62/16

Prayer in C.M.A.No.1532/16: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1989 against the Judgment and Decree passed by the Motor Accidents Claims Tribunal, Vellore (I Additional District and Sessions Court, Vellore) in M.C.O.P.No.413 of 2014 dated 07.04.2015.

Cross Objectors in Cr.Obj.No.62/16: Cross Objection is filed under Order 41 Rules 22 of CPC against the Judgment and Decree passed by the Motor Accidents Claims Tribunal, Vellore (I Additional District and Sessions Court, Vellore) in M.C.O.P.No.413 of 2014 dated 07.04.2015.

In CMA No.1532/16

For Appellant : Mr.Paramasivadosh
For Respondents : Mr.C.Prabakaran

In Cr.Obj.No.62/16

For Cross Objectors : Mr.C.Prabakaran
For Respondent : Mr.Paramasivadosh

सत्यमेव जयते
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J U D G M E N T

The Managing Director of the Tamil Nadu State Transport Corporation, Vellore, having been aggrieved by the amount awarded passed by the learned I Additional District and Sessions Court, Vellore (Motor Accident Claims Tribunal, Vellore) in M.C.O.P.No.413 of 2014 dated 07.04.2015, awarding a sum of Rs.7,40,000/- with interest @ 7.5% per annum from 28.04.2014 to

07.04.2015, has brought this appeal questioning the quantum of compensation.

2. Heard Both sides. Admittedly, in the present case, neither negligence nor liability was questioned. The claimants, disagreed by the amount of compensation, has filed Cross Objection in Cros.Obj.No.62 of 2016. Reliance was placed upon the judgment of a Division Bench of this Court in Royal Sundaram Alliance Insurance Co. Ltd., Chennai v. S.Lakshmi and Others [2016 (1) TN MAC 490 (DB)], wherein following the ratio laid down by a Division Bench of this Court in Harrish, R. V. G.Divakaran and Others [2014 (1) TN MAC 657 (DB)] as well as the decisions of the Apex Court in Rajesh v. Rajbir Singh [2013 (2) TN MAC 55 (SC)], Sarla Verma v. Delhi Transport Corporation [2009 (2) TN MAC 1 (SC), Amrit Bhanu Shali v. National Insurance Company Ltd., [2012 (2) TN MAC 321 (SC)] and M.Mansoor v. United India Insurance Co. Ltd., [2013 (2) TN MAC 481 (SC)], Rs.15,000/- was fixed as notional monthly income including Rs.5,000/- towards future prospects and after deducting 1/3rd thereof and applying the multiplier '18' with appropriate deduction, has awarded a sum of Rs.16,20,000/-.

3. In the present case, the learned Tribunal, without taking note of the fact that the deceased was a 3rd year B.E. (Electrical and Electronic Engineering) Student, died at the age of 21 due to the rash and negligent driving of the bus belonging to the appellant/transport corporation on 20.09.2013 at 11.00 a.m., wrongly fixed the monthly income of the deceased as Rs.5,000/- and deducted 1/3rd towards personal expenses as he was a bachelor at the time of accident and miserably failed to provide just and reasonable compensation towards Loss of Dependency. When the father and mother who had obtained admission from a reputed Engineering College were under the fond hope that their son is going to complete B.E Degree and thereupon he would become renowned engineering, all their hopes were dashed against due to the fatal accident. The deceased is aged about 21 years at the time of accident. The Tribunal has miserably failed to note that had the accident not taken place, the deceased would have lived for more than 5 decades and during that period he would have taken care of his family by working hard.. These vital aspects have been completely overlooked by the Tribunal. In any event, it is a settled legal position, as laid down by the Division Bench decision of this Court, in the event of death of 3rd year B.E. Engineering student, a sum of Rs.10,000/- is to be fixed as notional monthly income and 50% thereof to be taken as addition towards future prospects.

4. In the present case, Rs.15,000/- is taken as notional monthly income and as he was a bachelor at the time of accident, 50% is deducted towards personal expenses. As the deceased was aged about 21 years at the time of accident, the right

multiplier would be '17' as per the judgment of the Sarla Verma v. Delhi Transport Corporation [2009 (2) TN MAC 1 (SC)]. Accordingly, by fixing so, the loss of dependency is worked out to Rs.16,20,000/- [15000 x 50% x 12 = 90000 x 18]. Moreover, the Apex Court again finally settled how much would be the reasonable amount of compensation to be awarded under the head Loss of Love and Affection. In Rajesh v. Rajbir Singh [2013 (2) TN MAC 55(SC)], it has been clearly held that minimum of Rs.1,00,000/- should be awarded towards Loss of Love and Affection. Hence, this Court hereby awards a sum of Rs.1,00,000/- each to the claimants.

5. I also find merit on the submission made by the learned counsel appearing for the appellants/claimants for the reason that the Division Bench of this Court while considering an almost identical and similar circumstance, in the case of fatal accident of 19 years old, first year B.E. student, has agreed with the Tribunal by following the ratio laid down by a Division Bench of this Court in Harrish v. G.Divakaran [2014 (1) TN MAC 657 (DB)] holding that the deceased engineering student would have acquired better employment opportunity in Electrical subject. Hence, a sum of Rs.15,000/- as notional monthly income including addition of 50% towards future prospects is justified. After deducting 50% towards personal expenses as the deceased was a bachelor, it has rightly applied the multiplier '18' and worked out the Loss of Dependency of Rs.16,20,000/- and following the principle laid down by the Apex Court in Rajesh v. Rajbir Singh [2013 (2) TN MAC 55 (SC)], held that at least a sum of Rs.1,00,000/- towards Loss of Love and Affection is to be awarded to the parents. This Court, keeping in mind that the parents have lost their only son, who was a brilliant student going to become an Engineer, is inclined to fix a sum of Rs.1,00,000/- each towards Loss of Love and Affection and Rs.25,000/- towards Funeral Expenses. Before the Tribunal, it was deposed by the mother of the deceased-PW1 that at the time of accident, the deceased was aged about 21 years and was studying 3rd year B.E. (Electrical and Electronic Engineering). Therefore, this Court is inclined to fix the compensation by following the decision of the Division Bench of this Court in Harrish.R. v. G.Divakaran [2014 (1) TN MAC 657(DB)]

6. Thus the compensation is arrived as follows:-

Rs.10,000/- is taken as notional monthly income of the deceased and following the ratio laid down by the Division Bench of this Court in Harrish v. G.Divakaran [2014 (1) TN MAC 657 (DB)], this Court is inclined to add 50% towards future prospects and thereafter deducting 50% towards personal expenses and applying the multiplier '18' on the basis of Sarla Verma's

case (cited supra) and Amrit Bhanu Shali v. National Insurance Company Ltd., [2012 (2) TN MAC 321 (SC)], loss of dependency is worked out to Rs.16,20,000/-[15000 x 50% x 12 = 90000 x 18].

Loss of Dependency	16,20,000/-
Loss of Love and Affection [Rs.1,00,000/- each]	2,00,000/-
Funeral expenses	25,000/-

Total	-----
	18,45,000/-

7. In fine, the appellant Insurance Company is directed to deposit the entire award amount along with interest at 7.5% per annum from the date of claim petition till the date of realization, less the amount already deposited if any, to the credit of M.C.O.P.No.413 of 2014, on the file of the Motor Accident Claims Tribunal, I Additional District and Session Court, Vellore, within a period of four weeks from the date of receipt of a copy of this judgment, failing which, they will have to pay interest at 12% p.a. On such deposit being made, it is open to the claimants to withdraw the said amount by moving appropriate application before the Tribunal. This Civil Miscellaneous Appeal is disposed of accordingly. Consequently, Cross Objection is allowed. C.M.P.No.11676/2016 is closed. No costs.

s/d-
Assistant Registrar(CCC)

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Sub-Assistant Registrar

To

Motor Accidents Claims Tribunal, Vellore
(I Additional District and Sessions Court, Vellore)
+1 CC to Mr. C. Prabhakaran, Advocate sr 69509

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C.M.A.1532 of 2016
and Cross Obj.No.62/16

RJ(CO)
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