

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
AND
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

C.M.A.No.1317 of 2014
and
M.P.No.1 of 2014

The General Manager,
Tamil Nadu State Transport Corporation Limited,
Villupuram Division, Rangapuram,
Vellore. ..Appellant/Respondents

Vs.

1. M.R.Selvaraj
S/o Ramasamy
2. Sasikala,
W/o Selvaraj
3. S.Sarankumar
S/o Selvaraj ..Respondents/Claimants

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1989 (Act IV of 1939) against the award passed by the Motor Accident Claims Tribunal (In the Court of II Additional District and Sessions Judge) Vellore at Ranipet, Vellore District in M.C.O.P.No.119 of 2010 dated 30.08.2013.

For Appellant : Mr.P.Paramasiva Doss
For Respondents : Mr.T.P.Prabakaran

J U D G M E N T

(Order of the Court was made by HULUVADI G. RAMESH, J.)

This Appeal is filed by the appellant/Transport Corporation against the award passed by the Motor Accident Claims Tribunal, (In the Court of II Additional District and Sessions Judge) Vellore at Ranipet, Vellore District in M.C.O.P.No.119 of 2010 dated 30.08.2013.

2. It is a case of fatal accident. On 30.05.2009 at around 00.40 hours, the deceased Sasikumar was travelling as a passenger in the respondent Government bus

bearing Registration No.TN 23 N 1941 from Bangalore to Vellore. While the bus was proceeding near Devikapuram, Mathanoor, which was driven by its driver in a rash and negligent manner, dashed against the rear side of the lorry bearing Registration No.TN 23-AP-5769 which was parked on the left side of the road due to tyre puncture. In the said accident, the conductor of the bus and Sasikumar, died on the spot.

3. The claimants/ father, mother and brother of the deceased have filed a claim petition in M.C.O.P.No. 119 of 2010 seeking a compensation of Rs.60,00,000/-. In support of the claim, the 1st claimant, father of the deceased examined himself as P.W.1. One M.K.Baskaran, Senior Executive in Sonata Software, in which the deceased was working, was examined as P.W.2 to speak about the employment and remuneration of the deceased. P.W.3, who is stated to be an eye-witness to the accident and who travelled along with the deceased in the bus at the time of accident was examined as P.W.3 and Exhibits P1 to P6 were marked on the side of the claimants. The bus driver, Kumar was examined as R.W.1 on the side of the Transport Corporation. However, no exhibit was marked on the side of the Transport Corporation.

4. The Tribunal, after taking note of the oral and documentary evidence held that the accident had happened only due to rash and negligent driving of the driver of the bus and fastened the liability on the Transport Corporation, to compensate the claimants.

5. Accordingly, the Tribunal granted the following amounts as compensation with interest at 7.5% per annum:-

Sl.N o.	Head	Amount granted by the Tribunal
1	Pecuniary loss	Rs. 60,97,560/-
2	Loss of love and affection	Rs.1,50,000/-
3	Funeral expenses	Rs.10,000/-
4	Loss of Estate	Rs.2,500/-
	Total	Rs.62,60,060/- (Since the claim is for Rs.60,00,000/- the Tribunal restricted the quantum of compensation as Rs.60,00,000/-

6. This Appeal is filed by the Transport Corporation disputing the quantum of compensation.

7. Learned counsel appearing for the Transport Corporation contended that the quantum of compensation awarded under various heads is on the higher side. He further contended that the compensation awarded under the head of pecuniary loss is without any basis. As per the decision of the Apex Court reported in 2009(6) SCC 121 (Sarala Verma v. Delhi Transport Corporation), 50% of the salary of the deceased has to be deducted towards personal expenses as the deceased was unmarried and also the age of the parents should be taken into consideration and proper multiplier should be adopted for calculating the pecuniary loss. He further contended that the quantum of compensation awarded towards loss of love and affection would not have been more than Rs.10,000/- each but the Tribunal has awarded Rs.50,000/- for each of the claimants which is on the higher side and hence, the award of compensation passed by the Tribunal has to be reduced.

8. Per contra, learned counsel appearing for the claimants submitted that taking into consideration that the deceased was a Software Engineer and was only 26 years old at the time of the accident, the Tribunal has adopted proper multiplier and the compensation awarded for pecuniary loss is just and proper. He further submitted that the compensation awarded on the other heads is also proper and does not require any interference by this Court.

9. Having gone through the award passed by the Tribunal and taking into account the submissions made on either side, we are of the view that the finding rendered by the Tribunal, fastening the liability on the part of the driver of the Transport Corporation, cannot be found fault with. However, we are of the view that the compensation awarded under the head of pecuniary loss is on the higher side. As per the decision reported in 2015 (6) SCC 347 (Munna Lal Jain and another v. Vipin Kumar Sharma and others), if the deceased is a bachelor, unless exceptional circumstances are shown, 50% of the salary has to be deducted towards personal and living expenses of the deceased. Insofar as calculating the future prospects is concerned, where the deceased is below 40 years of age, there must be an addition of 50% of the actual income of the deceased. In the present case, taking into account the salary of the deceased at Rs.29,890/- per month as fixed by the Tribunal and the deceased being aged only 26 years at the time of accident, adding 50% towards future prospects, the income of the deceased comes to Rs.44,935/- and deducting 50% of the income towards his personal expenses, since the deceased was unmarried, the loss of income per month to the family comes to Rs.22,417/- and applying the multiplier of 17, the loss of

dependency is fixed at Rs.45,73,170/-. Insofar as the compensation awarded under the head "funeral expenses" is concerned, the same is enhanced to Rs.25,000/- from Rs.10,000/-. The award of compensation in a sum of Rs.50,000/- to each of the claimants under the head of love and affection and a sum of Rs.2,500/- awarded under the head "loss of estate" are just and proper and the same are confirmed. There is no serious objection in respect of the interest granted at 7.5 % per annum. Accordingly, the compensation awarded by the Tribunal stands modified as follows:

Sl.N o.	Head	Amount granted by the Tribunal	Amount awarded by this Court
1	Pecuniary loss	Rs. 60,97,560/-	Rs.45,73,170/-
2	Loss of love and affection	Rs.1,50,000/-	Rs.1,50,000/-
3	Funeral expenses	Rs.10,000/-	Rs.25,000/-
4	Loss of Estate	Rs.2,500/-	Rs.2,500/-
	Total	Rs.62,60,060/- (Restricted to Rs.60,00,000/-)	Rs.47,50,670/-

10. In the result, the Civil Miscellaneous Appeal is allowed in part in the following terms:-

(i) The award of the Tribunal is reduced to Rs.47,50,670/- from Rs.60,00,000/-.

(ii) The interest granted by the Tribunal at 7.5% per annum is confirmed.

(iii) The Transport Corporation is directed to deposit the award amount granted by this Court along with accrued interest and costs within a period of three months from the date of receipt of a copy of this order, if not already deposited to the credit of M.C.O.P.No.119 of 2010.

(iv) On such deposit being made, the claimants are permitted to withdraw the award amount passed by this Court as apportioned by the Tribunal, on proper identification.

(v) There will be no order as to costs in this Appeal.

(vi) Consequently, connected miscellaneous petition is closed.
vsi

-s/d-
Assistant Registrar (CS-IV)

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Sub-Assistant Registrar

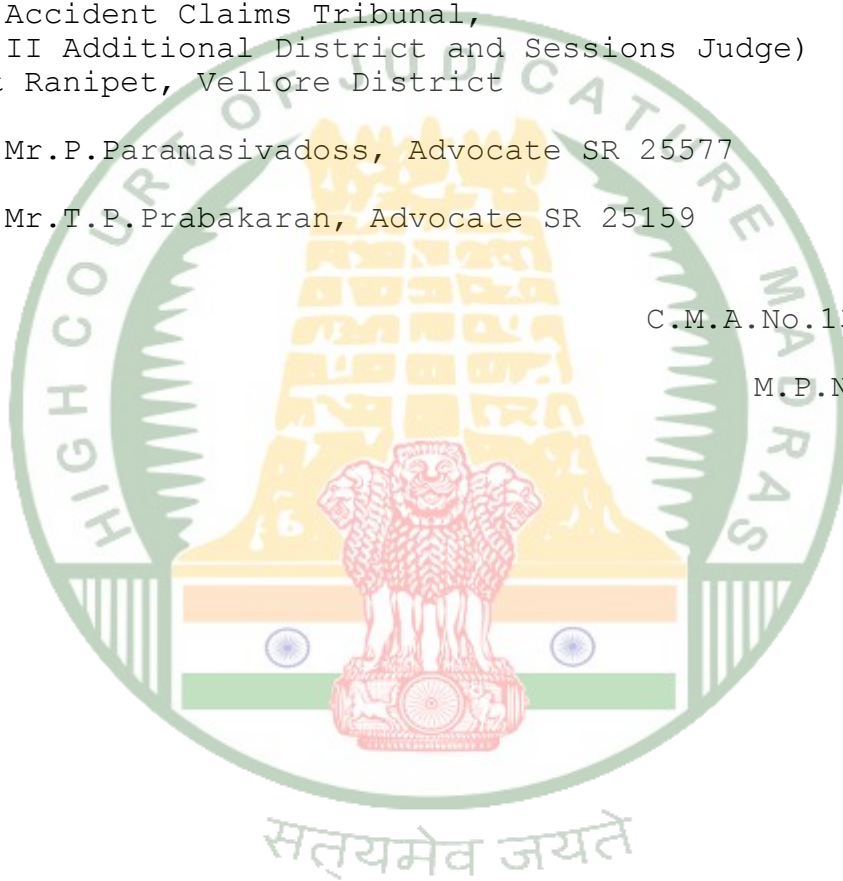
The Motor Accident Claims Tribunal,
(Court of II Additional District and Sessions Judge)
Vellore at Ranipet, Vellore District

+ 1 cc to Mr.P.Paramasivados, Advocate SR 25577

+ 1 cc to Mr.T.P.Prabakaran, Advocate SR 25159

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