



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.08.2016**

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

C.M.A. (MD) .No.833 of 2016
and
C.M.P. (MD) .No.7887 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Karaikudi : Appellant/Respondent

Vs.

1.M.Nantheeswari
2.Minor M.Shinega
3.Minor M.Subash

(Minors rep.by their Mother/Guardian-
1st respondent herein) : Respondents / Petitioners

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree passed in M.C.O.P.No.966 of 2010, dated 10th Day of March, 2011 on the file of the Motor Accident Claims Tribunal/ I Additional District Court, Madurai.

For Petitioner :Mr.M.Prakash

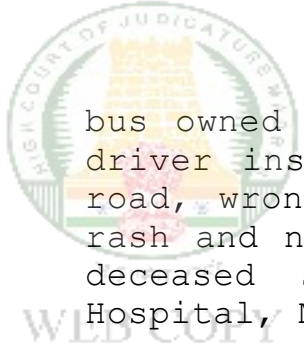
JUDGMENT

The appellant is aggrieved by the quantum fixed by the Motor Accident Claims Tribunal, Madurai and the same resulted in filing this Civil Miscellaneous Appeal.

2. Heard the learned Counsel for the appellant.

3. The respondents filed a claim petition in M.C.O.P.No.966 of 2010, on the file of Motor Accident Claims Tribunal/ I Additional District Court, Madurai, claiming a sum of Rs.12,00,000/- as compensation on account of the death of the husband of the first respondent and father of respondents 2 and 3 in a road accident involving the vehicle owned by the appellant.

4. The accident took place on 22.01.2010. The deceased was riding his motor cycle from Melur to Thirupathur main road. The



bus owned by the appellant was driven in a negligent manner. The driver instead of entering into the western side of the service road, wrongly entered through the eastern side service road in a rash and negligent manner and dashed against the motor cycle. The deceased sustained multiple injuries and died at Government Hospital, Melur.

5. The respondents in the claim petition contended that the deceased was doing money gram business. He was earning not less than Rs.10,000/- per month. He used to contribute about Rs.8,500/- to the family.

6. The learned Motor Accident Claims Tribunal fixed the monthly income at Rs.5,000/- per month. The tribunal deducted a sum of Rs.1,000/- towards personal expenditure of the deceased. The monthly income was fixed at Rs.4,000/-. The Tribunal took the multiplier of 16 and passed the award. The loss of income has been fixed at Rs.7,68,000/-. The tribunal awarded compensation on other accounts like loss of love and affection and fixed total compensation at Rs.8,28,000/-.

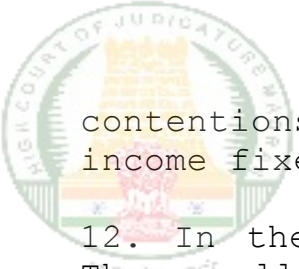
7. The Transport Corporation is primarily aggrieved by the monthly income fixed by the tribunal. According to the appellant, there was no evidence to fix the income at Rs.5,000/- per month.

8. The appellant has not specifically denied the contention with regard to the business of the deceased. Though the claimants made a claim that the deceased was earning not less than Rs.10,000/- per month, the tribunal fixed the monthly income only at Rs.5,000/- per month.

9. The Supreme Court in **Syed Sadiq etc Vs. Divisional Manager, United India Inds.Co., 2014 (1) Scale 377** observed that even a vegetable vendor is capable of earning a sum of Rs.6,500/- per month.

10. The Supreme Court in **Santhose Devi Vs National Insurance Company Limited, (2012) 6 SCC 421** observed that there has been incremental enhancement in the income of those who are self-employed and even those who are engaged on daily basis, monthly basis or even seasonal basis. The Supreme Court further observed that the Court can take judicial notice of the fact that with a view to meet the challenges posed by high cost of living, the persons falling in the latter category periodically increase the cost of their labour.

11. The tribunal assessed the monthly income of the deceased at Rs.5,000/-. The assessment was made on the basis of materials available on record and decided cases on the point. I am therefore of the view that there is absolutely no merit in the



contentions taken by the appellant with regard to the monthly income fixed by the tribunal. The appeal is devoid of merits.

12. In the result, the civil miscellaneous appeal is dismissed. The appellant is directed to deposit the entire award amount with accrued interest and costs before the tribunal within a period of three weeks from the date of receipt of a copy of this judgment, in case the same has not been deposited sofar. No costs. Consequently, the connected miscellaneous petition is closed.

sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

ssm

To

The Additional District Judge, The Motor Accident Claims Tribunal,
Madurai.

Copy To : (Through Registered Post)

M.Nantheeswari,

W/o.Late.Manvalan,

Thanikyamangalam Village & Post,

Melur Taluk, Madurai District.

+1 cc to M/s.N.Prakash, Advocate in SR.No.47545

CSL/DB/SAR-III/20.09.2016:3P/4C

ORDER MADE IN
C.M.A. (MD) .No.833 of 2016
26.08.2016