



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2016

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A. (MD) No.1531 of 2013

1. Dhanalakshmi
2. Minor A.Nanmaran
3. Minor Subapriya
(Minors are rep.by their Mother/Natural
Guardian Dhanalakshmi) ... Appellants/Petitioners

Vs.

1. K.P.Natarajan
2. The Divisional Manager,
Oriental Insurance Company Limited,
2nd Floor, Siva Complex,
22-C, Sarada College Main Road,
Salem 623 016.
3. A.Jeyakodi ... Respondents/Respondents

Prayer: The Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award amount passed in M.C.O.P.No.1942 of 2009 dated 12.10.2012 on the file of the Motor Accident Claims Tribunal, District and Sessions Court, (Communal Clash Court), Madurai.

For Appellants : Mr.S.M.Mohan Gandhi
For R2 : Mr.C.Jawahar Ravindran
For R3 : Mr.K.Sathish

J U D G M E N T

The Civil Miscellaneous Appeal is filed against the award amount passed in M.C.O.P.No.1942 of 2009 dated 12.10.2012 on the file of the Motor Accident Claims Tribunal, District and Sessions Court, (Communal Clash Court), Madurai.

2. It is a case of unfortunate fatal accident took place on 19.08.2009 at about 21.30 hours in Pudukottai - Karaikudi Road near Vilangudi Bus Stand. The deceased was working as a Professor and Head of the Department (Mechanical) in Subramanian Polytechnic College, Rayachoti, Rayachoti. At the time of death, the deceased was aged about 35 years and wife, two minor children and the mother were



the dependents of the deceased. The dependents filed an application seeking compensation before the Motor Accident Claims Tribunal, Madurai and considering the facts and circumstances of the case, the Tribunal awarded Rs.13,56,400/-. Challenging the above award, the claimants preferred the present appeal on the ground that the quantum of compensation fixed by the Tribunal is in violation of the principles laid down by the Honourable Supreme Court of India in the case of Sarala Verma reported in 2009 (2) TN MAC 1 (SC). Therefore, the amount of compensation is to be enhanced on various heads.

3. The learned counsel appearing for the respondents opposed the contentions of the appellants by stating that it is a case whether the Tribunal rightly deducted the personal expenses as 1/3rd and further contended that the claimants never proved that the mother was the dependent. So, in the absence of any such proof that the mother of the deceased was a dependent, the Tribunal is right in adopting the multiplier. Hence, there is no error in the award of the Tribunal and the appeal deserves to be dismissed.

4. Considering the rival contentions advanced by both the learned counsel for the appellants and the respondents, this Court, on reading of the findings rendered by the Tribunal, it is clear that the dependents are four in number and therefore, the Tribunal ought to have deducted the personal expenses as 1/4th as laid down by the Honourable Supreme Court in Sarala Verma reported in 2009 (2) TN MAC 1 (SC). Therefore, the amount fixed for the personal expenses is not correct and is to be reviewed and enhanced. This apart, this Court found that the loss of consortium of Rs.20,000/- awarded by the Tribunal is also less, in view of the fact that the wife is aged below 30 years and two minor children and mother was also there and hence, the loss of consortium is to be enhanced to Rs.50,000/- instead of Rs.20,000/-. The funeral expenses of Rs.5,000/- fixed is also very meagre and considering the fact that the accident took place in the year 2008, this Court is inclined to enhance the funeral expenses as Rs.10,000/-. In totality, this Court considered the enhancement of the loss of income by applying the deduction of personal expenses as ¼. The modification is required in respect of future loss of income which is to be assessed as 30% of the total loss of income. Accordingly, the amount of Rs.4,34,160/- is fixed towards future loss of income. This apart, the Tribunal failed to grant any compensation for love and affection. Hence, the appellants/claimants are entitled to Rs.50,000/- towards love and affection. Since the two children are minor, fixing compensation for love and affection is necessary. Accordingly, the award passed by the Motor Accident Claims Tribunal and Sessions Court, (Communal Clash Court), Madurai in M.C.O.P.No.1942 of 2009 is set aside and the quantum of award is enhanced as hereunder:



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For Loss of Income	: Rs. 14,47,200/-
For Future Prospects	: Rs. 4,34,160/-
For Transportation	: Rs. 5,000/-
For Loss of Consortium	: Rs. 50,000/-
For Funeral Expenses	: Rs. 10,000/-
For Love and Affection	: Rs. 50,000/-

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Rs. 19,96,360.00
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5. Accordingly, the Civil Miscellaneous Appeal is allowed. The second respondent / Insurance Company is directed to deposit the modified amount of compensation within a period of six weeks from the date of receipt of a copy of this order and thereafter, the appellants/claimants are permitted to withdraw the entire award amount with accrued interest through RTGS by filing necessary applications before the Tribunal and the amount of compensation is to be apportioned by the Tribunal in accordance with law and the minors share shall be deposited in anyone of the Nationalised Bank and the interest alone to be withdrawn by the first appellant/mother once in three months. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
District and Sessions Court,
(Communal Clash Court), Madurai.

+1 cc to Mr.S.M.Mohan Gandhi, Advocate, SR.No.70083
+1 cc to Mr.C.Jawahar Ravindran, Advocate, SR.No.69622
+1 cc to Mr.K.Sathish, Advocate, SR.No.69479

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