

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. No.2856 of 2017

1. Dhanam
2. Palaniyappan .. Appellants/Petitioners

Versus

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Branch Office at No.12,
Ramakrishna Road,
Salem. .. Respondent/Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 for enhancement of compensation in the Judgment and Decree dated 09.03.2016 and made in M.C.O.P. No.150 of 2015 on the file of MACT/Principal District Court at Namakkal.

For Appellant : Mr.Ma. P.Thangavel
For Respondent : Mr.D.Venkatachalam

JUDGMENT

This appeal is filed by the claimants challenging the quantum of compensation awarded by the Tribunal.

2. The deceased Mallika, aged 30, self employed Tailor, earning a sum of Rs.10,000/- p.m. met with an accident on 11.06.2014 which resulted in her death. The claimants, viz., the parents of the deceased, filed claim petition claiming compensation.

3. The Tribunal, on consideration of oral and documentary evidence, awarded compensation in a sum of Rs.5,77,000/- under the following break up details :-

Sl. No.	Head	Amount awarded Rs.
1	For Loss of Income (Rs.5,000/- x 1/2 x 12 x 17)	5,10,000/-

Sl. No.	Head	Amount awarded Rs.
2	Medical Bills	52,000/-
3	Love and affection	10,000/-
4	Funeral expenses	5,000/-
	Total	5,77,000/-

4. The learned counsel for the appellants contend that future prospective increase in income has not been considered and the monthly notional income has to be considered at Rs.12,000/- p.m., as per the decision of the Honourable Supreme Court in Neeta's case - 2015 (1) TN MAC 161 (SC).

5. A perusal of the document available on records reveal that while quantifying the compensation, the Tribunal has taken the monthly income of the deceased at Rs.5,000/- and after deducting 50% towards personal expenses and by adopting multiplier of '17', the loss of income was quantified at Rs.5,10,000/-.

6. Though it is the contention of the learned counsel for the appellant that notional income should be fixed at Rs.12,000/- p.m., admittedly there is no acceptable documentary evidence produced to substantiate the said contention. However, keeping in mind the fact that the accident happened in the year 2014, and the cost of living index prevalent during the said period, this Court is of the view that it would be safe to fix the monthly income of the deceased at Rs.8,000/-. Further, this Court is of the view that it would be just and reasonable to consider increase of 40% towards future prospective increase in income. Therefore, taking the notional income of the deceased at Rs.8,000/- per month and adding 40% towards future prospective increase in income, and deducting 50% towards the personal expenses and adopting multiplier of '17', the loss of Income is quantified at Rs.11,42,400/- (Rs.8,000 + 3200 x 12 x 17 x 1/2).

7. Insofar as the compensation awarded under the head love and affection is concerned, only a meagre amount has been awarded. This Court feels that an amount of Rs.50,000/- to each claimant under the said head would meet the ends of justice. Similarly, funeral expenses has been awarded at Rs.5,000/-. This Court feels that a sum of Rs.15,000/- under the head funeral expenses would be a reasonable compensation.

8. As pointed out by the learned counsel for the appellant, no compensation has been awarded under the heads transportation and loss of estate. This Court, on the facts and circumstances

of the case, feels that an amount of Rs.10,000/- and Rs.15,000/- respectively under the heads transportation and loss of estate would be a reasonable compensation.

9. Accordingly, the compensation is enhanced from Rs.5,77,000/- to Rs.13,34,400/- under the following break-up details :-

Sl. No.	Head	Amount awarded Rs.
1	For Loss of Income (Rs.8,000/- + Rs.3,200/- x 12 x 17 x 1/2)	11,42,400/-
2	Medical Bills	52,000/-
3	Love and affection for two person	1,00,000/-
4	Funeral expenses	15,000/-
5	Transportation	10,000/-
6	Loss of estate	15,000/-
	Total	13,34,400/-

10. In the result, the Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal is enhanced to the extent indicated above. No costs.

11. The Transport Corporation/respondent herein is directed to deposit the entire amount of compensation, as enhanced by this Court, less the amount, if any, already deposited, along with interest @ 7.5% from the date of petition till the date of deposit to the credit of MCOP No.150 of 2015 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimants/appellants, as per the ratio of apportionment ordered by the Tribunal, through RTGS, within a period of two weeks thereafter. Necessary court fee, if any, shall be paid on the enhanced compensation amount by the claimants herein before receiving the copy of the judgment.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

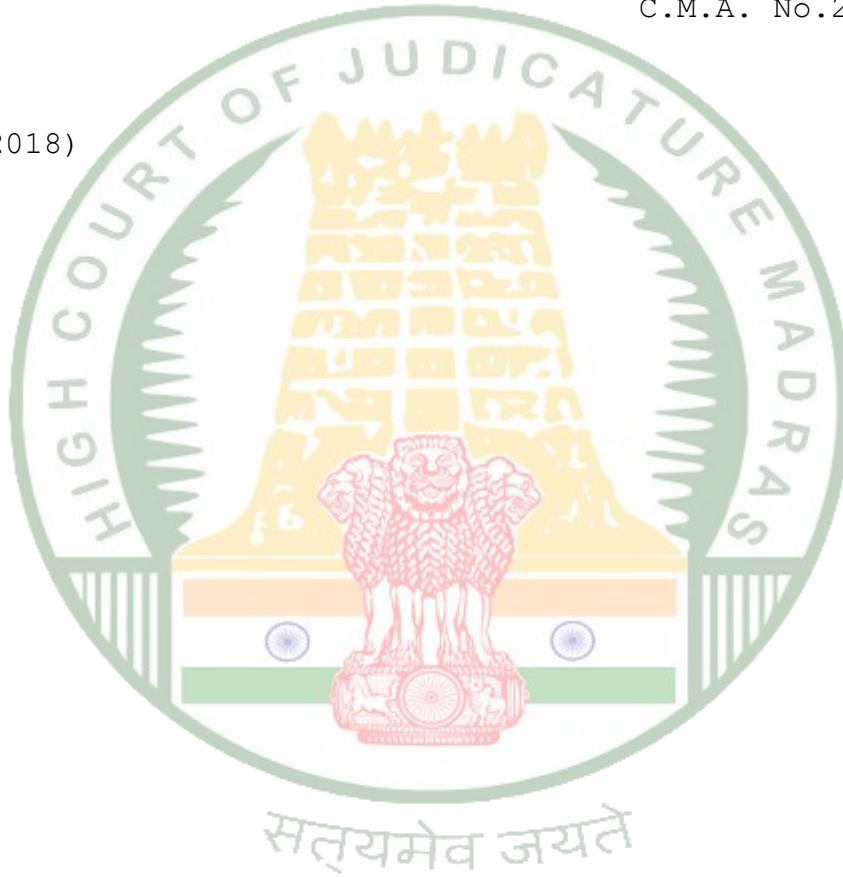
1. The Principal District Judge at Namakkal.

+1 CC to Mr.D. Venkatachalam, Advocate sr 78611.

+1 CC to Mr.Ma.P. Thangavel, Advocate sr 78826.

C.M.A. No.2856 of 2017

PVS (CO)
SP (06/08/2018)



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