



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A. (MD)No.1053 of 2014

and

M.P. (MD)No.1 of 2014

- 1.Palaniyammal
- 2.Vijayalakshmi
- 3.Minor. Manju Devi
- 4.Minor.Pon Ayyanar
- 5.Muthulakshmi

... Appellants/ Claimants

(The Minor Appellants 3 & 4 are represented through their mother and natural guardian the 1st Appellant)

Vs.

The General Manager,
Tamil Nadu State Transport Corporation,
Virudhunagar District.

...Respondent/Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this Civil Miscellaneous appeal by setting aside the order and decree made in M.C.O.P.No.26 of 2013 dated 25.02.2014 on the file of the Motor Accident Claim Tribunal/Chief Judicial Magistrate Court, Virudhunagar District at Srivilliputhur by enhancing the compensation amount from Rs.7,65,400/- to Rs.12,00,000/-.

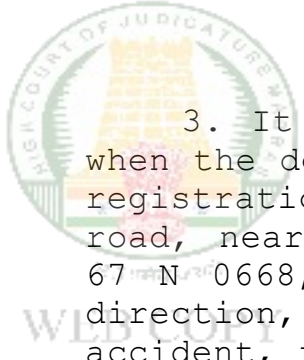
For Appellants : Mr.M.Thirunavukkarasu

For Respondent : Mr.P.Prabhakaran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants/claimants, seeking enhancement of compensation awarded in M.C.O.P.No.26 of 2013, dated 25.02.2014 by the Motor Accident Claim Tribunal/Chief Judicial Magistrate Court, Virudhunagar District at Srivilliputhur.

2. It is a case of fatal accident, which took place on 08.11.2012 at about 10.50 hours at Srivilliputhur to Madurai, near Indira Nagar Bridge.



3. It is the case of the claimants before the Tribunal that when the deceased was riding his Bajaj Platina Motor cycle bearing registration No.TN 60 C8147 on Srivilliputhur to Madurai main road, near Indira Nagar Bridge, a bus bearing registration No.TN 67 N 0668, which was coming in a high speed from the opposite direction, dashed against the Bajaj Platina Motor and in that accident, the deceased died.

4. The claimants filed an application in M.C.O.P.No.26 of 2013, on the file of the Motor Accident Claim Tribunal/Chief Judicial Magistrate Court, Virudhunagar District at Srivilliputhur, claiming compensation.

5. Before the Tribunal, on side of the appellants three witnesses were examined as P.Ws.1 to 3 and eleven documents were marked as Ex.P1 to Ex.P11. On the side of the Transport Corporation, one witness was examined as R.W.1 and no document was marked on their side.

6. The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the Transport Corporation and directed the Transport Corporation to pay a sum of Rs. 7, 65, 400/-, as compensation to the petitioners/claimants.

7. Aggrieved by the same, the appellants/claimants have filed this present appeal seeking enhancement of compensation.

8. The learned counsel for the appellants/claimants submitted that without considering the age and avocation and dependency of the claimants over the deceased, the Tribunal awarded only a meagre sum in all heads and that the Tribunal has not added the future prospects and therefore, the compensation awarded by the Tribunal is to be enhanced.

9. The learned counsel for the respondent/Transport Corporation submitted that based on the evidence, the Tribunal awarded a just and reasonable compensation and therefore, the same does not warrants interference.

10. Heard the submissions made on either side and perused the materials available on record.

11. With regard to quantum of compensation, at the time of accident, the deceased was stated to be doing painting work and was earning a sum of Rs.11,250/-- per month. To show that the deceased was earning about Rs.11,250/- per month, no document was filed. Therefore, the Tribunal took only Rs.5,400/- as notional monthly income and has not awarded any amount towards future

prospects. Therefore, this Court, while fixing a sum of Rs.5,400/- as monthly income of the deceased, has awarded 30% towards future prospects, as per the ratio laid down in **Rajesh and others .vs. Rajbir Singh and others reported in 2013(3) CTC 883**. Since the age of the deceased was found to be 43 years, the appropriate multiplier to be applied as per the **Smt.Sarla Verma .vs. Delhi Transport Corporation reported in 2009(2) TN MAC 1(SC)** case, is '14'. Therefore, 30% has to be added towards future prospects as the age of the deceased was found to be as 43. If 30% is added towards future prospects, the monthly income would be Rs.5,400 + Rs.1620/- = Rs.7,020/-.

12. Since the size of the family is five, as per the judgement **Smt.Sarla Verma .vs. Delhi Transport Corporation reported in 2009 (2) TN MAC 1(SC)**, $1/4^{\text{th}}$ has to be deducted. The loss of income after deduction would be Rs.5,400 + 30% - $1/4^{\text{th}}$ = Rs.5265/- and therefore, the loss of income would be Rs.5,400/- + 30% - $\frac{1}{4} \times 12 \times 14$ = **Rs.8,84,520/-**.

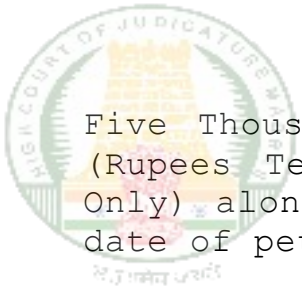
13.The Tribunal has also awarded a sum of Rs.25,000/- towards loss of consortium and the same is hereby enhanced to **Rs.75,000/-**; a sum of Rs.50,000/- awarded towards loss of love an affection is hereby enhanced to **Rs.1,00,000/-** and a sum of Rs.10,000/- awarded towards funeral expenses is hereby enhanced to **Rs.25,000/-**.

14. In view of the above, this Court modifies the award of the Tribunal by enhancing the compensation, as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For loss of income	6,80,400	8,84,520	enhanced
2.	For consortium	25,000	75,000	enhanced
3.	For love and affection	50,000	1,00,000	enhanced
4.	For funeral expenses	10,000	25,000	enhanced
	Total	Rs.7,65,400	Rs.10,84,520	By enhancing a sum of Rs.3,19,120/-

15. In the result,

(i) This Civil Miscellaneous Appeal is allowed, enhancing the award of the Tribunal from **Rs.7,65,400/-** (Rupees Seven Lakhs Sixty



Five Thousand and Four Hundred Only) to a sum of **Rs.10,84,520/-** (Rupees Ten Lakhs Eighty Four Thousand Five Hundred and Twenty Only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs;

(ii) The respondent / Transport Corporation is directed to deposit the entire award amount, less the amount already deposited, with accrued interest at the rate of 7.5% per annum, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit being made, the major claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, with proportionate interests and costs. The Tribunal is directed to deposit the share of the minor claimants in any one of the Nationalised Banks, in a Fixed Deposit scheme, till they attain majority. The mother and guardian of the minor claimants, is permitted to withdraw the accrued interest once in three months directly from the bank, only for the welfare of minors. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To,

1. The Chief Judicial Magistrate,
Motor Accident Claim Tribunal,
Srivilliputhur, Virudhunagar District.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr.M.Thirunavukkarasu , Advocate in SR No. 77451

+ 1 cc TO Mr.P.Prabhakaran , Advocate in SR No. 77437

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AE/SV MMS/SAR1/21.11.2017/4P/5C

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