



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2017

CORAM

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. (MD) No.207 of 2017

1.Valarmathi  
2.Nethaji Rao  
3.V.Lalitha

.. Appellants / Petitioners

Vs.

1.Dhanalakshmi

2.National Insurance Company Ltd.,  
Trichy Branch - 2,  
Jerome Building,  
Fort Station Road,  
Trichy - 2.

3.Muthukrishnan

4.Oriental Insurance Company Ltd.,  
75, Krishnan Street,  
Behind Anna Statute,  
Thiruvannamalai,  
Tamil Nadu - 606 601.

.. Respondents/Respondents

Prayer:- Appeal filed under Section 173 of the Motor Vehicles Act, against the award, dated 27.11.2015 passed in M.C.O.P.No.69 of 2014, by the learned Special District Judge [Motor Accident Claims Tribunal], Trichy.

For Appellant : Mr.N.Sudhagar Nagaraj

For R2 : Mr.J.S.Murali

#### JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellants against the award, dated 27.11.2015 passed in M.C.O.P.No.69 of 2014, by the learned Special District Judge [Motor Accident Claims Tribunal], Trichy.

2.The appellants, who are the wife and parents of the deceased, Nethaji Rao, are the claimants in M.C.O.P.No.69 of 2014. According to the appellants/claimants, on 04.09.2013 the deceased was driving an ambulance bearing Registration No.TN-48-G-0060 on



Madurai - Trichy National Highways, at that time, a lorry, bearing Registration No.TN-48-V-0210, which was coming behind the ambulance, was driven by its driver in a rash and negligent manner and dashed against the ambulance and due to the said impact, the deceased sustained multiple injuries and was admitted in Government Hospital, Thuvankurichi, as inpatient on 04.09.2013 and 05.09.2013. Subsequently, he died on 06.09.2013. The accident occurred only due to rash and negligent driving by the driver of the lorry and hence, they claimed a sum of Rs.20,00,000/- as compensation.

3.On contest, the Tribunal, considering the oral and documentary evidence let in, found that the accident occurred only due to the rash and negligent driving of the driver of the first respondent lorry and awarded the compensation of Rs.8,40,000/- along with interest at 7.5% p.a. from the date of claim petition till the date of realisation.

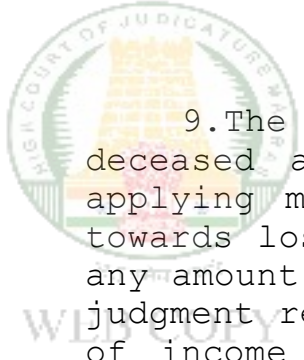
4.Aggrieved over the said award, the present Civil Miscellaneous Appeal has been filed.

5.Heard Mr.N.Sudhagar Nagaraj, learned Counsel for the appellants and Mr.J.S.Murali, learned Counsel for the second respondent - Insurance Company and perused the materials available on record.

6.The learned counsel for the appellants submitted that on the date of accident, the deceased was aged 39 years and by fixing Rs.6,000/- as monthly income and after deducting 1/3 towards personal expenses and applying multiplier '15', the Tribunal has awarded Rs.7,20,000/- towards loss of dependency. However, the Tribunal has not awarded any amount under the head 'future prospects'. He further submitted that even for self-employed persons, 50% future prospects can be ordered and in this case, at the time of accident, the deceased was working as Ambulance driver in Indian Red Cross Society, Tamil Nadu Branch, Egmore, Chennai and therefore, the appellants are entitled for 50% future prospects.

7.In support of his submissions, the learned counsel for the appellants relied on the judgment of the Hon'ble Apex Court reported in 2013 (2) TN MAC 55 (SC) [Rajesh and others Vs. Rajbir Singh and others].

8.Considering the abovesaid fact and the judgment reported in 2013 (2) TN MAC 55 (SC) [cited supra], while computing the compensation, future prospects can be taken into consideration and 50% of the income has to be added, as future prospects for the



9. The Tribunal has fixed Rs.6,000/- as monthly income of the deceased and after deducting 1/3 towards personal expenses and applying multiplier '15', the Tribunal has awarded Rs.7,20,000/- towards loss of dependency. However, the Tribunal has not awarded any amount under the head 'future prospects'. In the light of the judgment reported in 2013 (2) TN MAC 55 (SC) [cited supra], if 50% of income is added, then, the income of the deceased would be Rs.9,000/- (Rs.6,000 + Rs.3,000). After deducting 1/3<sup>rd</sup> of the income towards the personal and living expenses of the deceased, the monthly income works out to Rs.6,000/-. Applying 15 multiplier, the loss of income would be Rs.10,80,000/- (Rs.6,000X12X15), which sum the Tribunal ought to have awarded under the head, loss of income. In all other aspects, the award of the Tribunal is confirmed. The rate of interest awarded by the Tribunal at 7.5% per annum remains unaltered.

10. Accordingly, the appellants are entitled to modified compensation of Rs.12,00,000/- along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs.

11. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed enhancing the award of the Tribunal from Rs.8,40,000/- to a sum of Rs.12,00,000/-. No costs.;

(ii) The appellants/claimants are entitled to the said compensation as per the apportionment made by the Tribunal.;

(iii) The appellants/claimants are directed to submit their Savings Bank Account Details along with the copies of their passbooks to the Tribunal forthwith.;

(iv) The second respondent-Insurance Company is directed to deposit the award amount now modified by this Court along with accrued interest and costs, less the amount deposited, if any, to the credit of M.C.O.P.No.69 of 2014 on the file of the Motor Accident Claims Tribunal/Special District Judge, Trichy, within a period of six weeks from the date of receipt of a copy of this judgment.;

(v) On such deposit, the Tribunal is directed to transfer the said amount of the appellants/claimants directly to their Personal Savings Bank Account Numbers, through RTGS/NEFT system, after getting their Account Details, within a period of two weeks thereafter.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar.



To

1.The Special District Judge,  
Motor Accident Claims Tribunal,  
Trichy.

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

+1CC to M/S.J.S.Murali, Advocate, SR.No. 16927

+1CC to M/S.N.Sudhagar Nagaraj, Advocate, SR.No. 16802

C.M.A. (MD) No.207 of 2017  
22.03.2017

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