



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. (MD) No.228 of 2017
and
C.M.P. (MD) No.2658 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
Maruthupathy Nagar, Karaikudi,
Sivagangai District.

... Appellant/Respondent

Vs.

- 1.Kala
- 2.Minor Bhraavigha
- 3.Minor Gobisanth

(The second and third respondents are
minors and represented by their mother
and natural guardian the first respondent herein)

- 4.Shanmugavel
- 5.Chellammal

... Respondents/Petitioners

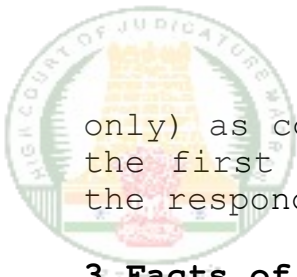
PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree in M.C.O.P.No.403 of 2013, dated 01.06.2016 on the file of the Motor Accident Claims Tribunal - cum - Special District Court for M.C.O.P Cases, Madurai.

For Appellant : Mr.P.Prabhakaran

JUDGMENT

Being aggrieved over the award passed by the Motor Accident Claims Tribunal-cum-Special District Court for M.C.O.P Cases, Madurai in M.C.O.P.No.403 of 2013, the Transport Corporation has filed the present appeal.

2.The appellant Transport Corporation is the respondent and the respondents 1 to 5 are the claimants in MCOP.No.403 of 2013. The respondents 1 to 5/claimants filed the claim petition in MCOP.No.403 of 2013 claiming a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs



only) as compensation for the death of one Bharathidasan, husband of the first respondent, father of the respondents 2 and 3 and son of the respondents 4 and 5.

3.Facts of the case:-

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According to the respondents 1 to 5, on 17.10.2008 at 01.00 p.m., when the deceased was travelling as a pillion rider in Two wheeler bearing Registration No.TN-65-F-5799 (Hero Honda Splendor), the bus bearing Registration No.TN-63-N-0873 belonging to the appellant was driven by the driver of the appellant in a rash and negligent manner from the opposite direction and dashed against the deceased. Due to the said accident, the deceased fell down and sustained grievous injuries and died on the spot. According to the respondents 1 to 5, the deceased was 29 years at the time of the accident and was working as Police Constable and was earning Rs.15,000/- (Rupees Fifteen Thousand only) per month. The respondents 1 to 5 are the dependants. Therefore, they filed the claim petition against the appellant claiming a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) as compensation for the death of the deceased.

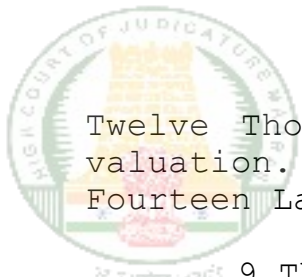
4.The appellant filed counter statement and denied all the averments made by the respondents and submitted that the accident did not occur due to the rash and negligent driving of the driver of the appellant. On the other hand, the rider of the two wheeler drove the same in a rash and negligent manner with drunken mood and lost his control and fell down on the right side of the bus and invited the accident and therefore, prayed for dismissal of the claim petition.

5.Before the Tribunal, the first respondent examined himself as P.W.1 and other witnesses were examined as P.W.2 to P.W.5 and marked 17 documents as Exs.P.1 to P.17. The appellant examined the driver of the bus as R.W.1. The appellant did not mark any documents.

6.The Tribunal, considering the pleadings, oral and documentary evidence, Ex.P1-F.I.R., evidence of P.W.1 to P.W.5-eyewitnesses, came to the conclusion that the accident occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant and there was no contributory negligence on the part of the deceased. Considering the age and the nature of work done by the deceased before his death, the Tribunal awarded a total sum of Rs.18,12,400/- (Rupees Eighteen Lakhs Twelve Thousand and Four Hundred only) as compensation.

7.Aggrieved against the said award, the Appellant/Transport corporation has filed the present Civil Miscellaneous Appeal.

8.In the appeal, the appellant is disputing the quantum of compensation to the extent of Rs.4,12,400/- (Rupees Four Lakhs



Twelve Thousand and Four Hundred only) as seen from the memo of valuation. The quantum of compensation upto Rs.14,00,000/- (Rupees Fourteen Lakhs only) is not disputed by the appellant.

9. The learned counsel for the appellant contended that the learned Judge erred in awarding 50% future prospects and similarly the application of multiplier 17 taking into consideration the age of the deceased, is not correct. The compensation awarded on different heads is also excessive.

10. The only issue to be decided in this appeal is, whether the award of the Tribunal to the tune of Rs.4,12,400/- (Rupees Four Lakhs Twelve Thousand and Four Hundred only) is highly excessive?

11. I have heard the learned counsel appearing for the appellant and perused all the materials available on record.

12. From the materials available on record, it is seen that it is not deputed by the appellant that deceased was working as a Police Constable at the time of the accident. He was aged about 29 years. It is well settled by the Honourable Apex Court that for age of 29 years, 50% of the salary can be ordered to the salary received by the deceased towards future prospects. The Tribunal has applied the correct multiplier "17" as per the judgment reported in **2009(2)TN MAC 1 (SC) Sarla Verma v. Delhi Transport Corporation** and awarded a total sum of Rs.18,12,400/- (Rupees Eighteen Lakhs Twelve Thousand and Four Hundred only) and the amounts awarded in different heads are not excessive.

13. The compensation awarded by the Tribunal is just compensation and the appellant did not let in any evidence to disprove the case and same is not excessive. The appellant has not made out any case for modifying the award of the Tribunal by reducing the compensation.

14. In the result, the Civil Miscellaneous Appeal is dismissed and compensation awarded by the Tribunal is confirmed. The appellant/Transport Corporation is directed to deposit the entire award amount to the credit of M.C.O.P.No.403 of 2013, on the file of the Motor Accidents Claims Tribunal-Special District Court for M.C.O.P Cases, Madurai, less the amount already deposited, if any, along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the Tribunal is directed to transfer the award amount to the Personal Savings Bank Account Number of the claimants/respondents 1,4 & 5, after getting their Account Details, within a period of two weeks thereafter. Insofar as the respective shares of the minors/respondents 2 & 3 are concerned, the Tribunal is directed to deposit the same in a fixed Deposit under renewable scheme periodically till they attain majority and the first respondent, the Guardian of the minors, is permitted to withdraw the



interest accrued thereon once in three months for the welfare of the minors. No costs. Consequently, connected miscellaneous petition is also dismissed.

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Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal - cum -
Special District Court for M.C.O.P Cases,
Madurai.
2. The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 17265

AM/MRN

TE/KP/SAR-IV : 21/04/2017 : 4P/4C

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