



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA(MD)No.1280 of 2014

1.Nagoorammal
2.Abbas Mandiri
3.Minor Malkari Ali
4.Minor Syed Ali Fathima
5.Minor Syed Banu
(Minors 3 to 5 rep.by their
mother and guardian, 1st appellant)
... Appellants/Petitioners

Vs.

Tamil Nadu State Transport Corporation
Kumbakonam (Division) Ltd,
Karaikudi,
Rep.by its Managing Director
(Cause title amended as per order dated 27.11.2018
made in CMP(MD).No.5008/02 in CMP(MD).No.6275/00)
... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 23.09.1998 made in MCOP.No.2280 of 1995 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Madurai.`

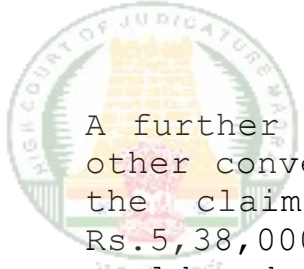
For Appellant	: Mr.K.Kumaravel
For Respondents	: Mr.P.Prabhakaran

JUDGMENT

The claimants have filed this appeal seeking enhancement of compensation awarded to them.

2.The deceased Shek Davood was aged 50 years at the time of the accident that took place on 09.06.1995. The Tribunal awarded a sum of Rs.1,15,099/- as compensation. There were five dependents. Contending that the compensation awarded to the claimants is not adequate, this appeal has been filed.

3.Considering the avocation of the deceased, I am of the view that including the future prospects his monthly income can be taken for computational purpose at Rs.3,000/-. Therefore, the pecuniary loss for the family will be Rs.4,68,000/-(3000x12x13).



A further sum of Rs.70,000/- can be awarded towards damages under other conventional heads. Therefore, the compensation payable to the claimants is enhanced from a sum of Rs.1,15,099/- to Rs.5,38,000/-. The learned counsel appearing for the respondent would submit that 50% contributory negligence should have been fixed on the deceased.

4.Perused the materials available on record.

5.Since the 50% contributory negligence has been fastened on the deceased, the compensation payable to the claimants would come to Rs.2,69,000/-. It can be rounded off to Rs.2,70,000/-. The award passed as early as on 23.09.1998. This appeal was numbered only in the year 2014. Therefore, the questioning of calculating interest for the period of delay in numbering the appeal will not arise.

6.The respondent transport corporation is directed to deposit the sum of Rs.2,70,000/- with interest at the rate of 7.5% per annum from the date of filing this appeal, till the date of realization and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimants are entitled to withdraw their share as apportioned by the Tribunal, by filing proper application, less the amount already withdrawn by them, if any. Since the award was passed as early as on 23.09.1998, the question of depositing the minor share will not arise.

7.This appeal is partly allowed. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The II Additional District Judge,
Motor Accident Claims Tribunal, Madurai.

Copy to:

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

+ 1 cc TO Mr.K.Kumaravel , Advocate in SR No. 91450

+ 1 cc TO Mr.P.Prabhakaran , Advocate in SR No. 91555

skm

AE/SV MMS/SAR4/09.03.2018/2P/6C