



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) Nos.407 & 408 of 2017
and
CMP (MD) Nos.4385 & 4386 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Tirunelveli, Having Office at
No.2, Vannarpettai,
Tirunelveli - 627 003.

... Appellant in both CMAs

Vs.

1.R.Susila

2.Minor R.Aswin
(Minor rep.by his mother
and next friend, the 1st respondent)

3.S.Thresammal

4.A.Seeni ...Respondents 1 to 4 in CMA(MD)No.407 of 2017

5.S.Jeeva ...Respondent in CMA(MD)No.408 of 2017

Common Prayer: Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree order dated 18.04.2016 made in MCOP.Nos.739 & 740 of 2015 on the file of the Motor Accidents Claims Tribunal / II Additional District Court, Tirunelveli.

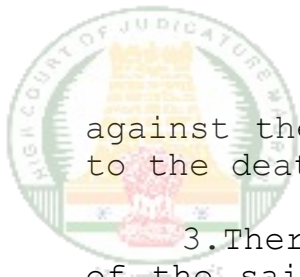
For Appellant
in both CMAs : Mr.P.Prabhakaran

For Respondents
in both CMAs : Mr.V.Sasikumar

COMMON JUDGMENT

Heard the learned counsel on either side.

2.A two wheeler was ridden by one Ravichandran with one Jeeva sitting in the pillion. When the bus belonging to the appellant corporation coming to east in a rash and negligent manner, dashed



against the two wheeler, the accident in question occurred, leading to the death of the said Ravichandran. Jeeva suffered injuries.

3. Therefore, MCOP.No.739 of 2015 was filed by the legal heirs of the said Ravichandran. The said Ravichandran was working as a Load man in Syed Beedi company, Tirunelveli. He was aged about 45 years. The monthly income was taken as Rs.6,500/-. Future prospects was added at the rate of 30%. Since there were four dependents, deduction was made only to the tune of one fourth. In this case, even though the Tribunal rightly observed that the deduction from the monthly income should be $1/4^{th}$, while calculating, only one third deduction was made. The correct multiplier would be 14. The Tribunal awarded a sum of Rs.10,89,400/-. This cannot be said to be excessive by any standards.

4. Even though the learned counsel appearing for the appellant would contend that the deceased was rash and negligence and that contributory negligence should be fixed on him, I am not inclined to agree with the said contention.

5. It is true that the appellant corporation had examined their driver as RW.1. If the bus had been driven in a careful manner and not in a rash and negligent manner, the accident in question would not have occurred. Therefore, I am not inclined to interfere with the finding regarding negligence arrived at by the Tribunal. Looked at from any angle, the impugned award passed in MCOP.No.739 of 2015 does not call for any interference.

6. It is seen that the Tribunal awarded interest at the rate of 9% per annum. This alone has to be modified to 7.5%. The award dated 18.04.2016 made in MCOP.Nos.739 2015 on the file of the Motor Accidents Claims Tribunal / II Additional District Court, Tirunelveli is accordingly modified. CMA(MD)No.407 of 2017 is partly allowed.

7. The appellant corporation is directed to deposit a sum of Rs.10,89,400/- with interest at the rate of 7.5% per annum, from the date of petition 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,, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.

CMA(MD)No.408 of 2017 :

The injured claimant has filed MCOP.No.740 of 2015. The Tribunal awarded a sum of Rs.8,18,800/- by applying multiplier method. It is under challenge in this appeal.

2. It is not in dispute that the claimant suffered fracture in the leg. His avocation is that of Tuition Master. It is not a case of functional disability. Hence, adopting multiplier method is clearly erroneous. The disability suffered by the claimant has been assessed at 46%. I am therefore constrained to modify the



award and rework the compensation payable to the claimant as under :

Disability compensation (46x3000)	: Rs.1,38,000/-
Medical expenses	: Rs.2,50,000/-
Pain and suffering	: Rs.1,00,000/-
Extra nourishment	: Rs. 15,000/-
Loss of marital prospects	: Rs. 47,000/-
Loss of amenities	: Rs. 25,000/-

Total : Rs.5,75,000/-

3.The award dated 18.04.2016 made in MCOP.Nos.740 2015 on the file of the Motor Accidents Claims Tribunal / II Additional District Court, Tirunelveli is modified.

4.The appellant transport corporation is directed to deposit a sum of Rs.5,75,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization with 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 claimant is permitted to withdraw the same, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

5.In the result, both the Civil Miscellaneous Appeals are partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1.The Motor Accidents Claims Tribunal /
II Additional District Judge, Tirunelveli

2.The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai.
+2ccs to Mr.V.Sasikumar, Advocate, SR.Nos.88835 and 88836
+2ccs to Mr.P.Prabhakaran, Advocate, SR.Nos.89007 and 89008

SKM

RL/7C/3P/SKN/RSK/SAR1/20/12/2017

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