



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A (MD) No.1356 of 2015

- 1.Angammal
- 2.Ayyappan
- 3.Sathya
- 4.Kolanji

... Appellants/Claimants

Vs.

- 1.T.Ashokkumar
- 2.Shriram General Insurance Company Ltd.,
Represented by its Branch Manager,
ES EPIP R11CO Industrial Area,
Sitaura, Jaipur,
Rajasthan-302 022.

... Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988, against the Judgment and decretal order made in M.C.O.P.No.744 of 2011 dated 26.04.2013, by the Motor Accident Claims Tribunal (I-Additional District Judge (PCR), Thanjavur.

For Appellants	: Mr.S.Rajaprabu
For R-2	: Mr.G.Marimuthu

J U D G M E N T

This Civil Miscellaneous Appeal is filed by the claimants as against the award passed in M.C.O.P.No.744 of 2011 dated 26.04.2013, by the Motor Accident Claims Tribunal (I-Additional District Judge (PCR), Thanjavur.

2. It is a case of fatal accident that took place on 22.02.2011 at about 3.00 p.m at Naloor Main Road, the driver of the layland lorry bearing Registration NO. TN-28-X3553 drove the lorry in a rash and negligent manner and dashed against the Hero Honda Splendor two wheeler bearing Reg.No.PY-01-AA-1674, in which, the deceased Manikandan was travelling. Due to the accident, the deceased sustained grievous injuries and died on the spot. The said accident had happened only due to the rash and negligent driving of the layland lorry, which is insured with the second respondent/insurance Company.



3. The claimants filed a Claim Petition in M.C.O.P.No.744 of 2011 before the Motor Accident Claims Tribunal (I-Additional District Judge (PCR), Thanjavur., seeking compensation.

4. In order to prove their case, the claimants examined three witnesses as P.Ws. 1 to 3 and Exs.P.1 to P.10 were marked. On the other hand, no oral and documentary evidence was adduced on the side of the second respondent.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the claimants and the Insurance Company and also on appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the layland lorry, which is insured with the second respondent/Insurance Company and directed the Insurance Company to pay a sum of Rs.8,04,000/- (Rupees eight lakhs and four thousand only) as compensation.

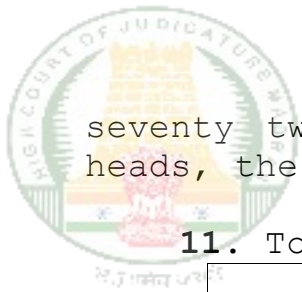
6. Against which, the appellants/claimants filed this present appeal on the ground that the Tribunal has erroneously adopted multiplier based on the age of the mother of the deceased and in all the other aspects also, the Tribunal has awarded a very meagre amounts.

7. The learned counsel appearing for the appellants/claimants contended that the Tribunal was not justified in granting total compensation of Rs.8,04,000/- and the same should be enhanced.

8. Per contra, the learned counsel for the second respondent/ Insurance Company contended that the Tribunal awarded a just and reasonable compensation and the same does not require interference and hence, this appeal is to be dismissed.

9. Heard the learned counsel appearing on both sides and perused the materials available on record.

10. It is settled law that the age of the deceased should be taken into consideration for calculating the income of the deceased. As per the judgment of the Honourable Supreme Court in **Sarla Verma v. Delhi Transport Corporation** reported in **2009 (2) TN MAC 1 (SC)**, the appropriate multiplier would be '18'. Considering the well settled law, in my considered view to meet the ends of justice, the notional income can be fixed at Rs.6,000/- (Rupees six thousand only) and after adding 50% towards future prospects, a sum of Rs.9,000/- (Rupees Nine Thousand only) is arrived and if 50% is deducted towards personal expenses, the monthly income of the deceased would be Rs.4,500/- (Rupees Four Thousand and Five hundred only) and by applying the appropriate multiplier '18', the loss of income would be **Rs.9,72,000/-** (Rupees nine lakhs and



seventy two thousand only)[Rs.4,500/- X 12 X 18]. In all other heads, the amounts awarded by the Tribunal shall stand unaltered.

11. Total compensation is awarded in the following manner:

Heads	Amount
Loss of income	Rs. 9,72,000/-
Loss of love and affection	Rs. 60,000/-
Transport Expenses	Rs. 5,000/-
Funeral Expenses	Rs. 10,000/-
Total	Rs. 10,47,000/-

12. In the result, this Civil Miscellaneous Appeal is partly allowed and the award made in M.C.O.P.No.744 of 2011 dated 26.04.2013, by the Motor Accident Claims Tribunal (I-Additional District Judge (PCR), Thanjavur is hereby modified. The total compensation is enhanced to Rs.10,47,000/- from Rs.8,04,000/-. The second respondent/ Insurance Company is directed to deposit the entire enhanced award amount with accrued interests and costs, within a period of six weeks from the date of receipt of a copy of this order and on such deposit being made, the claimants are permitted to withdraw their respective shares with proportionate interests and costs without filing formal permission petition. No Costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The I-Additional District Judge (PCR),
Motor Accident Claims Tribunal,
Thanjavur.

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

CM

VB/SV/MMS/SAR1/18/09/2017/3P/3C

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