

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 28.08.2017****CORAM****WEB COPY****THE HONOURABLE MRS.JUSTICE J.NISHA BANU****C.M.A(MD) No. 557 of 2017**

1.Senthil Arumugam

2.S.Saraswathi

... Appellant/Petitioners

Vs.

The Tamil Nadu State Transport Corporation,
Represented by its, The Managing Director,
No.19, Thiruvananthapuram Road,
Vannarpettai, Tirunelveli.

... Respondent/ Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 05.10.2015 made in M.C.O.P.No.424 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Tuticorin.

For Appellants :Mr.Siva Thilakar

For Respondent :Mr.P.Prabhakaran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 05.10.2015 made in M.C.O.P.No.424 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Tuticorin.

2. On 23.07.2014 at about 07.30 hours, the deceased Muthu Ram Kumar was travelling as a passenger in the respondent's bus bearing Registration No. TN-57-N-1589 from Mullakadu to Thoothukudi. When the said bus was flying on the Thoothukudi to Thiruchendur Main Road from South to North and was nearing Thoppu Street, at Muthiahpuram the driver of the respondent's bus drove the said bus with a high speed, without control in a rash and negligent manner and applied sudden break in the same speed, as a result the deceased was thrown away from the front door of the said bus. The deceased sustained crushed injury in his head, fracture in the ribs, and multiple internal and external injuries all over the body. Immediately he was taken to the Thoothukudi Government Medical College Hospital at Thoothukudi but he died on the way to hospital.

3. Since the deceased 17 years old boy, his parents filed the claim petition in M.C.O.P.No.424 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Tuticorin claiming compensation.



4. Before the Tribunal, Claimants examined two witnesses as P.W.1 and P.W.2 and marked six documents as Ex.P.1 to Ex.P.6. On the side of the Transport Corporation, R.W.1 was examined and they did not let in documentary evidence.

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5. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of both sides and also appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the Transport Corporation and directed the Transport Corporation to pay a sum of Rs.3,90,000/- as compensation.

6. The learned counsel appearing for the appellants/claimants submitted that the Tribunal fixed the annual income of the deceased at Rs.20,000/- and after deducting 1/3rd towards personal expenses and by applying multiplier method, the Tribunal awarded Rs.1,80,000/- towards loss of income, which is low. The learned counsel for the appellant would further submit that in a similar circumstances, this Court fixed Rs.30,000/- as annual income in C.M.A.(MD)No.1228 of 2014 dated 24.07.2017.

7. The said judgment is squarely applicable to this case. Following the same, it is just and proper to fix Rs.30,000/- as his annual income and if 18 multiplier is adopted, the amount towards loss of income would come to Rs.2,70,000/-. The Tribunal has rightly awarded Rs.1,00,000/- each to the claimants, who are the parents of the deceased towards loss of love and affection. The Tribunal awarded Rs.10,000/- towards funeral expenses, which is low. This Court enhances the same to Rs.25,000/-.

8. This Court modifies the award of the Tribunal by enhancing the compensation as under:-

S.No	Description	By Tribunal (Rs)	By this Court (Rs)	Result
1.	For loss of income	1,80,000	2,70,000	Enhanced
2.	Loss of love and affection to parents	2,00,000	2,00,000	confirmed
3.	For funeralal expenses	10,000	25,000	Enhanced
	Total	Rs.3,90,000	Rs.4,95,000	By enhancing Rs.1,05,000/-

11. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from **Rs.3,90,000/-** (Rupees three lakhs and ninety thousand only) to a sum of **Rs.4,95,000/-** (Rupees four lakhs and ninety five thousand only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs; No costs.



(ii) The Transport Corporation is directed to deposit the award amount with accrued interests and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw the respective shares with accrued interests and costs as apportioned by the Tribunal, without filing any formal application before the Tribunal. No Costs.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To,

The Motor Accidents Claims Tribunal,
Principal District Judge,
Tuticorin.

COPY TO:

The Section Officer,
V.R Section, Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.P.PRABHAKARAN, Advocate SR.No.74853

CM

MAS/JC/SAR1:27.09.2017:3P-4C

C.M.A(MD) No. 557 of 2017
28.08.2017