



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2017

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.(MD)No.204 of 2015
and
M.P.(MD)No.1 of 2015

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Having office at
Railway Station Road,
Kumbakonam.

...Appellant/Respondent

/Vs./

1.Jeyanthi
2.Minor.Yoganivetha
3.Minor Rithikasri

...Respondents/Petitioners

(Respondents 2 and 3 are represented by their
mother / first respondent as the legal guardian)

Prayer: Civil Miscellaneous Appeal is filed under section 173 of the Motor Vehicles Act 1988, against the award made in MCOP No.200 of 2013, dated 19.08.2014 on the file of the Motor Accident Claims Tribunal-cum- Additional Sub Court, Kumbakonam.

For Appellant : Mr.P.Prabhakaran

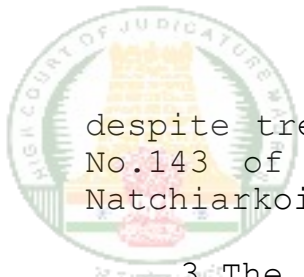
For Respondents : Mr.B.Anandan

J U D G M E N T

(Judgment of this court was made by K.KALYANASUNDARAM,J)

The Transport Corporation has preferred this appeal aggrieved over the award passed by the Motor Accident Claims Tribunal (Additional Sub Court), Kumbakonam, in M.C.O.P.No.200 of 2013, dated 19.08.2014.

2.According to the claimants, on 16.05.2011, the deceased Murugan was returning from Nethaji Auto Stand from north to south direction. At that time, a bus belonging to the appellant came in a high speed and dashed against the deceased. In the impact, he sustained multiple injuries and he was immediately admitted in Sugam Private Hospital and after first aid, he was referred to Thanjavur Medical College Government Hospital for better treatment. However,



despite treatment, he died on the same day. A crime case in Crime No.143 of 2011 was registered against the driver of the bus by Natchiarkoil Police Station under section 304(A) IPC.

3.The claimants have further stated that the deceased was working as a Contractor in TASMAC shop and was earning Rs.30,000/- per month. So, they are entitled for Rs.75,00,000/- as compensation.

4.The appellant opposed the claim contending that the accident occurred near a bus stop, so there was no possibility of driving the bus in a high speed and the deceased without noticing the bus, lost his balance and fell down on the center median and sustained injuries. Since, the bus never hit the deceased, the claim petition has to be dismissed with costs.

5.The tribunal, after analyzing the evidences adduced by the parties, held that the driver of the bus was responsible for the accident and awarded compensation of Rs.24,60,000/- along with interest at the rate of 7.5% per annum. Challenging the award, the present appeal has been filed.

6.Mr.P.Prabhakaran, learned counsel for the appellant submitted that income tax returns Exs.P.7, P8 and P9 would reveal that the deceased was earning a meagre sum of Rs.1,15,000/-, Rs.1,56,000/- and Rs.2,00,000/- for the period April 2007 to March 2011, but the tribunal has fixed the income of the deceased at Rs.20,000/- per month, which is on the higher side.

7.The learned counsel for the claimants contended that the deceased was only 36 years old and he was a business man and he was earning Rs.30,000/- per month. But, the tribunal has fixed the income of the deceased at Rs.20,000/- per month.

8.We have heard both sides and perused the materials available on record.

9.On perusal of income tax returns Exs.P7, P8 and P9, it is seen that the deceased was earning Rs.2,22,000/- for the relevant period and for the previous years, the income was Rs.1,15,000/- and Rs.1,56,000/- per annum. By taking the average income, this Court fixes the income of the deceased at Rs.8,000/- per month and added 40% towards future prospects, which comes to Rs.11,200/-. After deducting 1/3rd towards personal expenses, the loss of contribution to the family is arrived at Rs.7,467/- (rounded off to Rs.8,000/-) . The deceased died at the age of 36 is not in dispute, but by applying multiplier '15', this Court awards Rs.14,40,000/- (Rs.8,000/-x15x12) towards loss of dependency. In addition, Rs.15,000/- towards funeral expenses; Rs.40,000/- towards loss of consortium as per the decision of the Hon'ble Apex Court in the case of Prady Sethi. The award of Rs.30,000/- towards love and affection is confirmed.



10. In the result, the appeal is partly allowed and the award of the tribunal is modified as indicated above. The claimants would be entitled for Rs.15,25,000/- with interest @ 7.5% p.a. Out of the modified award amount, the first claimant is entitled to Rs.7,25,000/- and the claimants 2 and 3 are entitled to Rs.4,00,000/- each. The appellant is directed to deposit the modified award amount, less already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such claimant, the first claimant is permitted to withdraw her share and the share of the minor claimants shall be deposited in a nationalized bank in a fixed deposit scheme, till they attain majority. The first claimant is permitted to withdraw the interest accrued on the deposit once in three months for the welfare of the minors. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Additional Subordinate Judge,
Motor Accident Claims Tribunal
Kumbakonam.
2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

+1cc to M/S.P.Prabhakaran, Advocate SR.No. 87400
+1cc to M/S.B.Anandan, Advocate SR.No. 87671

C.M.A. (MD) No.204 of 2015
15.11.2017

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JM/SV MMS/SAR 1/28.02.2018/3P/6C