



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2017

Coram:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A(MD)No.74 of 2017

1.S.Janaki
2.Minor Dinesh Bharthi
3.Minor Muthuvel
4.V.Subramanian
(2nd and 3rd appellants are represented
by their mother and natural guardian,
S.Janaki, 1st appellant herein)

..Appellants/Petitioners

.vs.

The Managing Director,
Tamil Nadu State Transport Corporation(Kumbakonam) Ltd.,
Periyamilaguparai,
Trichy.

..Respondent/Respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 11.08.2014 in M.C.O.P.No.241 of 2012 on the file of the Motor Accident Claims Tribunal/Principal District Judge, Karur and seeking enhancement of compensation from a sum of Rs.6,74,000/-.

For Appellants : Mr.N.Sudhagar Nagaraj

For Respondent : Mr.D.Sivaraman

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the judgement and decree made in M.C.O.P.No.241 of 2012 on the file of the Motor Accident Claims Tribunal/Principal District Judge, Karur, dated 11.08.2014.

2. The first appellant's husband namely Mr.S.Srinivasan, who was working as a Conductor, died in the accident occurred on 30.05.2012. Therefore, claim petition was filed before the



3. The Tribunal on appreciation of evidence, came to the conclusion that the accident occurred because of the rash and negligent driving of the Transport Corporation bus and awarded compensation of Rs.8,26,000/-.

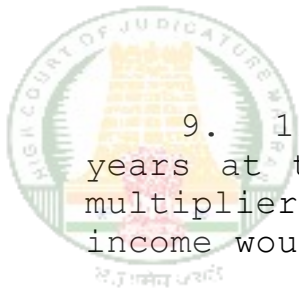
4. Aggrieved over the quantum of compensation of Rs.8,26,000/- awarded by the Tribunal for the death of Mr.S.Srinivasan, a bus Conductor aged about 44 years and earning about Rs.7,000/- per month, in the accident occurred on 30.05.2012 when he was standing before the bus in which he was working, in that accident, he was crushed down and knocked down by the respondent/transport corporation bus, which was coming reverse without noting the deceased, the claimants are before this Court.

5. Heard Mr.N.Sudhagar Nagaraj, learned counsel appearing for the appellants and Mr.D.Sivaraman, learned counsel appearing for the respondent/Transport Corporation.

6. The transport corporation has not come before this Court questioning the negligence fixed on the Driver of the Transport Corporation and only the claimants are before this Court questioning the quantum. Therefore, the finding of the Tribunal regarding negligence reaches finality.

7. With regard to quantum of compensation, at the time of accident, the deceased S.Srinivasan was stated to be working as a Conductor in D.S.M.Bus Company. P.W.2 also stated that the deceased was working in D.M.S. Bus Company. Ex.P8 is the Conductor Licence issued to the deceased. Therefore, there is no problem in concluding that the deceased was working as a Conductor. To show that the deceased was earning about Rs.7,000/- per month, no document was filed. Therefore, the Tribunal took Rs.6,000/- as monthly income. It is also very reasonable one. However, no future prospects has been awarded as per the ratio laid down in *Rajesh and others .vs. Rajbir Singh and others reported in 2013(3) CTC 883*. Since the age of the deceased was found to be 44 years as per Ex.P2-Post-mortem certificate, the appropriate multiplier to be applied as per the *Smt.Sarla Verma .vs. Delhi Transport Corporation reported in 2009(2) TN MAC 1(SC)* case, is '14'. Therefore, 30% has to be added towards future prospects as the age of the deceased was found to be as 44 as per Ex.P2 Post-mortem certificate. If 30% is added towards future prospects, the monthly income would be Rs.6,000/- + 30% = Rs.7,800/-

8. Since the size of the family is Four As per the judgement *Smt.Sarla Verma .vs. Delhi Transport Corporation reported in 2009 (2) TN MAC 1(SC)*, $1/4^{\text{th}}$ has to be deducted. The loss of income of the deceased would be $\text{Rs.6000} + 30\% - 1/4^{\text{th}} = \text{Rs.5850/-}$.



9. 11. The age of the deceased as already stated was 44 years at the time of accident. As per Ex.P2 and the appropriate multiplier as per *Sarla Verma's case*, is '14' and the loss of income would be Rs.6000/- + 30% - $\frac{1}{4} \times 12 \times 14$ = Rs.9,82,800/-.

10. Further, the Tribunal awarded only Rs.20,000/- towards loss of consortium to the first appellant and the same is enhanced to Rs.1,00,000/- as per the judgment in ***Rajesh and others .vs. Rajbir Singh and others reported in 2013(3) CTC 883***. Rs.40,000/- alone was totally awarded for loss of love and affection for the appellants. This Court is of the view that second and third appellants are entitled to each Rs.75,000/- (totally Rs.1,50,000/-) and the fourth appellant is entitled to Rs.25,000/- towards loss of love and affection. Further, Rs.10,000/- awarded to funeral expenses, is adjusted towards transport expenses and Rs.25,000/- is awarded to funeral expenses and no amount was awarded towards loss of estate and therefore, Rs.7,000/- is awarded towards loss of estate. Hence, the award of the Tribunal is modified as follows:

For loss of income	:Rs.9,82,800/-
For loss of consortium (For first appellant)	:Rs.1,00,000/-
For loss of love and affection (For appellants 2 & 3 each Rs.75,000/-, for fourth appellant Rs.25,000)	:Rs.1,75,000/-
For Funeral Expenses	:Rs. 25,000/-
For Transport Expenses	:Rs. 10,000/-
For Loss of Estate	:Rs. 7,000/-

Total	Rs.12,99,800/-

11. In the result, the total amount comes to Rs.12,99,800, which is rounded to Rs.13,00,000/- The interest rate at 7.5% awarded by the Tribunal remains unaltered. Out of the said amount, the first appellant is entitled to Rs.6,00,000/-, the second and third appellants are entitled to Rs.3,00,000/- each and the fourth appellant is entitled to Rs.1,00,000/-.

12. Thus the award of the Tribunal is enhanced from Rs.8,26,000/- to Rs.13,00,000/-. The respondent/Transport Corporation is directed to deposit the enhanced award amount after deducting the amount already deposited with proportionate interests and costs from the date of claim petition till the date of deposit, in four equal installments with the interval of eight weeks each. The first installment should be made in the first week of April, 2017 on 03.04.2017. The Tribunal is directed to pay the entire award amount after deposit of the entire amount by



way of four installments, to the claimants as per the above apportionment made along with proportionate accrued interest and costs by RTGS after getting the bank accounts of the claimants. In respect of the minor claimants, their share in the award amount along with proportionate interest and costs shall be deposited in interest bearing fixed deposit in any one of the nationalized bank till the minors attain majority.

13.The Civil Miscellaneous Appeal is allowed on above terms. No costs.

Sd/-
Assistant Registrar (writs)

/True Copy/

Sub Assistant Registrar

To

1. Motor Accident Claims Tribunal/
Principal District Judge, Karur
- 2.The Managing Director,
Tamil Nadu State Transport Corporation(Kumbakonam) Ltd.,
Periyamilaguparai,
Trichy.
- 3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr. N.SUDHAGAR NAGARAJ, Advocate, Sr.No:6115

+1 cc to Mr. D.SIVARAMAN, Advocate, Sr.No:6370

pm
MAS/CM-MSA:28.02.2017:4P/6C

C.M.A (MD) No.74 of 2017
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