



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2017

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD).Nos.423 and 424 of 2015C.M.A.(MD).Nos.423 of 2015

1.Karuppathal

2.Kannathal

... Appellants/Petitioners

Vs

1.Pappathi@Karuppathal

2.Palanisamy

3.The Managing Director,
Tamil Nadu State Transport
Corporation (Kovai Division II),
Chennimalai Road,
Erode.

...Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, to enhance the award amount passed on 29.04.2014 made in M.C.O.P.No.36 of 2007 on the file of the Motor Accident Claims Tribunal (Sub-Court), Palani.

For Appellants	: Mr.M.P.Senthil
For R.1	: Mr.D.Venkatesh
For R.3	: Mr.M.Kayalarasan
R.2	: Unclaimed

C.M.A.(MD).Nos.424 of 2015

1.Karuppathal

2.Kannathal

... Appellants/ Respondent Nos.2 & 3

Vs

1.Pappathi@Karuppathal

... 1st Respondent/Petitioner

2.The Managing Director,
Tamil Nadu State Transport
Corporation (Kovai Division II),
Chennimalai Road,
Erode.

...2nd Respondent/1st Respondent



PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, to set aside the fair and decreetal order dated 29.04.2014 made in M.C.O.P.No.357 of 2006 on the file of the Motor Accident Claims Tribunal (Sub-Court), Palani.

For Appellants : Mrs.M.P.Senthil

For R.1 : Mr.D.Venkatesh

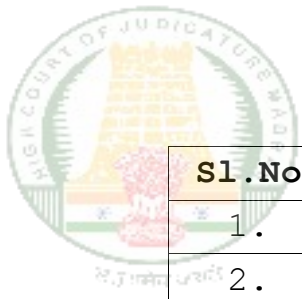
For R.2 : Mr.M.Kayalarasan

J U D G M E N T

One Chinna Gounder was travelling as a passenger in the bus, belonging to the respondent Transport Corporation, on 08.08.2006. Even before he could get down the bus, the bus was started. He fell down and suffered injuries. He died en-route. Pappathi@Karuppathal filed M.C.O.P.No.357 of 2006, on the file of the Motor Accident Claims Tribunal (Sub-Court), Palani, claiming compensation in the capacity of wife. The sisters of the deceased namely Karuppathal and Kannathal also filed M.C.O.P.No.36 of 2007 on the file of the Motor Accident Claims Tribunal (Sub-Court), Palani. The Tribunal awarded a sum of Rs.3,23,000/- with interest as compensation. The wife of the deceased was held entitled to 60% and the his sisters to 20% each on the compensation amount. The sisters of the deceased have filed these two appeals contending that the deceased had divorced his wife 30 years ago and that she ought not have to be given any compensation. They have also prayed for enhancement of compensation.

2. It is admitted that the deceased Chinna Gounder had married Pappathi @ Karuppathal. It may be true that they were not living together. Even though it is contended that the deceased had divorced his wife, there is nothing on record to show that the marriage tie got dissolved in the manner known to law. It is true that the sisters of the deceased plead that there was customary divorce in this case, but the same was not established or proved. Therefore, I am of the view that the Tribunal rightly held that the wife is also entitled to a share in the compensation.

3. As regards the question of quantum, it has to be seen that the age of the deceased was mentioned as 52 in the claim petition itself. The claimants have also adduced evidence to show that he was aged 52. Therefore, the age mentioned in the post mortem report cannot be decisive of the matter. I, therefore, holds that the age of the deceased should be taken as 52. Therefore, the multiplier should be 11. Hence, the pecuniary loss by adopting $Rs.3,000 \times 12 \times 11 = Rs.3,96,000/-$. The compensation payable to the claimants under other heads will have to be reworked as under:-



Sl.No	Heads	Amount in Rupees
1.	Pecuniary loss	Rs.3,96,000/-
2.	Loss of consortium	Rs.40,000/-
3.	Transportation	Rs.5,000/-
4.	Loss of estate and funeral expenses	Rs.30,000/-
	Total	Rs.4,71,000/-
	Round off	Rs.4,75,000/-

4. Accordingly, the wife/claimant in M.C.O.P.No.357 of 2007 is entitled to a sum of Rs.2,75,000/- with interest. The sisters of the deceased is entitled to a sum of Rs.1,00,000/- each with interest.

5. Therefore, the award made in M.C.O.P.No.357 of 2006 on the file of the Motor Accident Claims Tribunal (Sub-Court), Palani is modified as indicated above. The appellant Corporation is liable to deposit the entire sum of Rs.4,75,000/- with interest at 7.5% per annum and cost from the date of petition till the date of realization within a period of twelve weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit the wife/claimant is entitled to withdraw a sum of Rs.2,75,000/- and the sisters are entitled to withdraw a sum of Rs.1,00,000/- each, by filing proper application before the Tribunal, less the amount already withdrawn by them, if any.

6. Accordingly, C.M.A(MD)No. 423 of 2015 is dismissed and C.M.A(MD)No. 424 of 2015 is partly allowed. No costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal (Sub-Court), Palani.

2.The Managing Director,Tamil Nadu State Transport

Corporation (Kovai Division II), Chennimalai Road, Erode.

Copy to: The Record Keeper,

Madurai Bench of Madras High Court,Madurai.

+2CC to Mr.D.Venkatesh, Advocate, SR.No. 87726,87727

+2CC to Mr.M.P.Senthil, Advocate, SR.No. 87754, 87755

C.M.A. (MD) .Nos.423 and 424 of 2015

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