



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.M.A(MD)No.633 of 2014

and

C.M.P. (MD)No.6442 of 2017

K.Selvaraj

... Appellant/Petitioner

Vs.

1. A.Pappa

2. The Branch Manager,

The Oriental Insurance Company Ltd.,

Kamaatchiamman Complex,

2nd Floor,

Opp. Sri Kamatchi Amman Kovil,

Dindigul road,

Ottanchathiram - 624 619.

...Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree made in M.C.O.P.No.50 of 2013 dated 27.01.2013, on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate) Karur.

For Appellant : Mr.T.Selvakumaran

For R-1 : No appearance

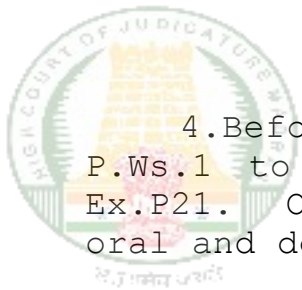
For R-2 : Mr.K.Bhaskaran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/ claimant against the award of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate) Karur, made in M.C.O.P.No.50 of 2013.

2. It is a case of injury caused due to the accident that took place on 18.03.2013 at about 9.00 p.m, at Karur Bye Pass Road, in which, the claimant was driving a two wheeler bearing Registration No.TN-47-S-2767. At that time, the bus bearing Registration No. TN-57-AW-4554 came near V.K.A. Petrol bulk and dashed against the two wheeler. Due to the impact, the claimant sustained grievous injuries.

3. The claimant filed an application in M.C.O.P.No.50 of 2013 on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate) Karur., seeking compensation.



4. Before the Tribunal, the Claimant examined four witnesses as P.Ws.1 to P.W.4 and marked twenty one documents as Ex.P.1 to Ex.P.21. On the side of the respondents, they did not let in any oral and documentary evidence.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimants and also on appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the bus and directed the second respondent/Insurance Company to pay a sum of Rs.9,82,700/-, as compensation.

6. Against which, the appellant/claimant has filed this present appeal on the various grounds. He would mainly argue that the Tribunal ought not to have fixed the monthly income at Rs.10,000/- and the Tribunal can award the amount towards loss of income by applying multiplier method and the Tribunal can award under the head of permanent disability also and he prays for enhancement of compensation.

7. The learned counsel for the Insurance Company contented that the Tribunal awarded a just and reasonable compensation and the same does not require interference and hence, this appeal is to be dismissed.

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

9. The claimant sustained 85% disability. The Tribunal awarded Rs.7,80,300/- towards permanent disability and Rs.27,000/- towards loss of income. This Court is inclined to adopt the multiplier method for calculating the income of the deceased by fixing the disability at 85%. As per the judgment of the Supreme Court in **Sarla Verma v. Delhi Transport Corporation**, reported in **2009(2) TN MAC 1 (SC)** multiplier '17' should be taken into account as the age of deceased was 34 at the time of accident. As per the settled law, Rs.6000/- can be taken as his monthly salary. Therefore, a sum of Rs.10,40,400/- ($6000 \times 12 \times 17 \times 85/100$) would come towards loss of income. Instead of granting a sum of Rs.7,80,300/- towards disability and Rs.27,000/- towards loss of income, this Court grants Rs.10,40,400/- for loss of income. The Tribunal awarded Rs.20,000/- towards pain and suffering which is very low and this Court enhanced the amount towards pain and suffering to Rs.50,000/-.

10. In all other heads the award of the Tribunal is confirmed. As per the award of the Tribunal, Rs.8,500/- towards transportation, Rs.15,000/- towards nutrition meal, Rs.50,000/- towards pain and suffering, Rs.78,900/- towards medical expenses,



Rs.10,40,400/- towards loss of income Rs.50,000/- towards loss of amenities and Rs.3000/- towards attendant charges is granted. Totally, a sum of Rs.12,45,800/- rounded off to Rs.12,45,000/- is awarded towards compensation.

11. In the result, this Civil Miscellaneous Appeal is dismissed and the award made in M.C.O.P.No.50 of 2013 on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate) Karur is hereby enhanced to Rs.12,45,000/- from a sum of Rs.9,82,700/-. The second respondent/Insurance Company is directed to deposit the entire enhanced amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the respondent/claimant is permitted to withdraw the enhanced award amount, with proportionate interests and costs without filing formal permission petition. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Karur.

+1cc to Mr.K.Bhaskaran, Advocate Sr.No.68879

+1cc to Mr.T.Selvakumaran, Advocate Sr.No.69232

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VB/KK/SAR4/11/09/2017/3P/4C

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