



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2017

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

CMA(MD)No.656 of 2014

1.Sharmila Banu
2.Minor Mohamed Mustafa
3.Minor Tasneem
4.Minor.Shamika Nirakis
5.Thahira Begam : Appellants/Claimants

(Minor Appellants 2 to 4
are represented by their mother
Natural guardian and next friend
Sharmila Banu)

Vs.

Tamil Nadu State Transport Corporation
Kumbakonam through
its Managing Director : Respondent/Respondent

Prayer: Civil Miscellaneous Petition filed under section 173 of the Motor Vehicles Act 1988, against the judgment and decree passed in MCOP No.425 of 2013, dated 07.03.2014 by the Special District Court/Motor Accident Claims Tribunal, Thanjavur.

For Appellants : Mr.D.Veerasekaran

For Respondent : Mr.P.Prabakharan

J U D G M E N T

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

The claimants have preferred this appeal seeking enhancement of compensation.

2.The case of the claimants is that on 26.01.2013 at about 4.15 p.m, the first claimant's husband Kadhar Hussain was driving a Car bearing registration No.TN-49-AM-6440 along with passengers from Thanjavur to Trichy. While the Car was coming near Nudalamuchuvalli cut road at Vallam on Thanjavur to Trichy NH Road, a bus belonging to the respondent Transport Corporation bearing



registration No.TN-49-N-2010 driven by its driver in a rash and negligent manner, rammed the Car. In the impact, the driver of the Car died on the spot. In this regard, a case in crime No.35 of 2013 under sections 279, 337 and 304(A) IPC was registered by the Vallam Police.

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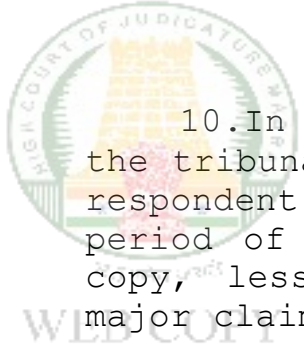
3.The claimants would further state that the deceased was working as driver-cum-owner of the Car and he was getting a monthly income of Rs.15,000/- and he died due to the rash and negligent driving of the respondent Corporation bus driver and claimed compensation of Rs.30,00,000/-.

4.The respondent Transport Corporation resisted the claim petition disputing the manner of the accident and their liability to pay the compensation.

5.Heard Mr.D.Veerasekaran, learned counsel for the appellants and Mr.P.Prabhakaran, learned counsel for the respondent and perused the materials available on record.

6.In the instant case, the respondent transport corporation has not filed any appeal, challenging the finding of the tribunal and this appeal has been filed seeking enhancement of compensation. The claimants examined PW3 Pandian, who is the owner of Jayam Travels to establish the case, the deceased was providing his own Car to the travels, thereby, he was earning Rs.15,000/- per month. Since no documentary evidence was produced to corroborate the evidence of PW2, the tribunal has fixed Rs.6,000/- as monthly income of the deceased and after deducting 1/3rd towards personal and living expenses, held that he was contributing Rs.4,000/- per month to his family.

7.The deceased died at the age of 42 years is not in dispute. The tribunal has rightly adopted multiplier of '14' to determine the compensation, but the tribunal has failed to add amount towards future prospectus. As per the decision of the Hon'ble Supreme court, the claimants would be entitled for additional 30%. By adding 30%, the salary of the deceased would be Rs.7,800/- [Rs.6,000/- =Rs.1,800/-] which is rounded off to Rs.8,000/-. Since they are five claimants, 1/4th has to be deducted from the income of the deceased for his personal expenses. After deducting 1/4th, the loss of dependency would come to **Rs.10,08,000/-**. [Rs.6,000/- x 12 x 14]. The award of the tribunal in respect of other heads at **Rs.1,20,000/-** are reasonable and they are confirmed. In total, the claimants are entitled to **Rs.11,28,000/-** along with interest @ 7.5% p.a. Out of the total compensation, the first claimant is entitled for Rs.4,00,000/- and the claimants 2 and 3 each entitled for Rs.2,00,000/- and the 4rd claimant is entitled for Rs.2,28,000/- and the 5th claimant is entitled to Rs.1,00,000/-.



10. In the result, the appeal is **partly allowed**. The award of the tribunal is enhanced from Rs.7,92,000/- to **Rs.11,28,000/-**. The respondent is directed to deposit the modified amount within a period of eight weeks from the date of receipt of the judgment copy, less the amount already deposited. On such deposit, the major claimants are permitted to withdraw their share. No costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To,

1. The Motor Accident Claims Tribunal/
Special District Judge, Thanjavur.
2. The Section Officer,V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr.P.Prabakharan , Advocate in SR No. 83210

+ 1 cc TO Mr.D.Veerasekaran , Advocate in SR No. 83263

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AE/MR KKR/SAR1/13.12.2017/3P/5C

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