



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

and

THE HONOURABLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

C.M.A(MD) No.580 of 2015

1.S.K.Malarvizhi

2.S.K.Muthulakshmi

: Appellants//Claimants

Vs.

Tamil Nadu State Transport Corporation Limited,

Rep. through

The Managing Director,

Dindigul.

: Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988 against the fair and decreetal order, dated 17.12.2014 made in MCOP No.259 of 2013 on the file of IV Additional District Judge (Motor Accident Claims Tribunal), Madurai.

For Appellants

: Mr.A.Liaketali

For Respondent

: Mr.K.Sudalaiyandi

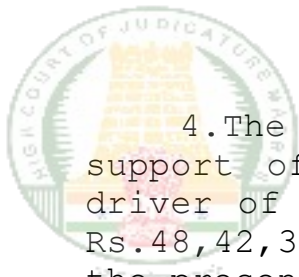
JUDGMENT

[Judgment of the Court was made by **K. KALYANASUNDARAM, J.]**

Being dis-satisfied with the award of the Motor Accident Claims Tribunal (IV Additional District Judge, Madurai) passed in MCOP No.259 of 2013, dated 17.12.2014, the claimants have come forward with the present appeal seeking enhancement of compensation of Rs.26,57,637/-.

2.The mother and sister of the deceased Sakthikumar approached the tribunal seeking compensation of Rs.75,00,000/- alleging that on 14.11.2012 at about 3.30 p.m, when the deceased was riding his motor cycle with one Manikandan as pillion rider, a speedy bus belonging to the respondent Transport Corporation came in a rash and negligent manner, in the wrong side and rammed the motor cycle. As a result, the deceased sustained grievous injury and he succumbed to the injuries.

3.The claim was resisted by the respondent by filing counter disputing the age, income and manner of the accident.



4.The parties have adduced both and documentary evidence in support of their case. Eventually, the tribunal found that the driver of the bus caused the accident and awarded compensation of Rs.48,42,363/- with interest @ Rs.7.5% p.a. Seeking enhancement, the present appeal is filed as stated above.

WEB COPY

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

6.It is seen that the tribunal, accepting the evidence of the claimants, came to the conclusion that the driver of the bus was responsible for the accident. Admittedly, the finding is not challenged by the respondent. The claimants have stated that the deceased was 33 years at the time of the accident and he was working as a Technical Manager (Production Department) at JRG Foundries in Karnataka State and was earning Rs.40,000/- per month.

7.Perusal of Ex.P17 postmortem report and Ex.P31 Driving licence would reveal that the deceased was 32 years age on the date of the accident. PW6 Ramasamy produced Ex.P27 Salary Certificate and Ex.P28 Salary Slip to prove that the deceased was drawing Rs.40,000/- per month. The tribunal, after deducting the tax and conveyance allowance and HRA, has arrived at Rs.22,800/- as loss of earning per month and applying multiplier 16, awarded Rs.43,77,600/- towards loss of dependency and another Rs.4,64,000/- towards conventional damages. In all, the claimants were held to be entitled for **Rs.48,42,363/-** along with interest @ 7.5% p.a.

8.The learned counsel for the appellants submitted that the tribunal has awarded lesser compensation and the tribunal ought not to have deducted the conveyance allowance and HRA, while calculating the income of the deceased. We are not able to accept the submission of the learned counsel for the appellants for the reason that the allowances are paid only for the employment of the deceased.

9.It is settled law that the court has to pass just compensation and the award cannot be a bonanza or extravaganza to the claimants. In the case on hand, in the considered opinion of this court, the award of the tribunal is reasonable and therefore, it is confirmed.

10.In the result, this Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/



To

1. The IV Additional District Judge,
Motor Accidents Claims Tribunal,
Madurai.

2. The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2Copies)

+ 1 cc TO Mr.A.Liaketali , Advocate in SR No. 88413

+ 1 cc TO Mr.K.Sudalaiyandi , Advocate in SR No. 82241

er

AE/SV MMS/SAR2/25.01.2018/3P/6C

C.M.A (MD) No.580 of 2015
10.10.2017