



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2017

CORAM:

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

C.M.A(MD)No.832 of 2014
and
M.P(MD)No.3 of 2014

The General Manager,
Tamil Nadu State Transport Corporation,
Karaikudi. ... Appellant/Respondent

vs.

1.Anandi ... Respondent No.1/Petitioner No.1
2.Ajay Vignesh ... Respondent No.2/Petitioner No.2
3.Arun Karthik ... Respondent No.3/Petitioner No.3

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act to set aside the Judgment and decree passed by the Motor Accident Claims Tribunal/Additional District Court, FTC, Ramanathapuram, in MCOP No.59 of 2011, dated 31.01.2012.

For Appellant : Mr.D.Sivaraman
For Respondents : No appearance

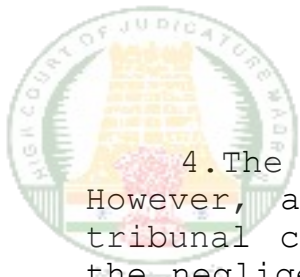
JUDGMENT

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

This appeal is directed against the award passed by the Motor Accident Claims Tribunal/Additional District Court (FTC), Ramanathapuram, in M.C.O.P.No.59 of 2011, dated 31.01.2012.

2.The respondents 1 to 3 filed the claim petition seeking compensation of Rs.70,00,000/-. According to the claimants, on 15.12.2010, when the deceased Haridoss was proceeding in his Two-Wheeler near Sakkarai Kottai Muniyasamy Kovil on Ramanathapuram-Keelakarai main Road, a bus belonging to the appellant Transport Corporation bearing Registration No.TN-01-N-3760 came in a high speed and dashed against the Motor-cycle. In that process, the deceased was run over and he died on the spot.

3.The claimants have further stated that the deceased was 50 years old at the time of the accident and he was working as Senior Manager in Pandian Grama Bank, Keelakarai and was earning Rs.43,100/- per month. So they are entitled for compensation.



4.The claim was resisted by the appellant by filing a counter. However, after analyzing the evidence adduced by the parties, the tribunal came to the conclusion that the accident occurred due to the negligence of the driver of the bus and awarded compensation of Rs.42,54,000/- with interest @ 7.5% p.a. Against the judgment and decree, the present appeal has been filed.

5.Despite service and the name of the respondents are printed in the cause list, none appears.

6.Mr.D.Sivaraman, learned counsel for the appellant submitted that the deceased was 51 years at the time of accident and he was having 9 more years of service before his retirement, but the tribunal has erroneously adopted multiplier '11', so it is a fit case to apply split multiplier. It is further submitted that the appellant has not disputed the findings on the negligence and the appeal is restricted to only quantum.

7.It is not in dispute that the deceased was working in the Bank and was earning Rs.48,000/- per month, which is proved by production of salary certificate (Ex.P10). The retirement age of the deceased was 60 years and after retirement, he will be receiving 50% of the salary towards pensionary benefits. It is settled law that in the case of death of an employee, split multiplier has to be applied, but in this case, the tribunal has applied multiplier '11'.

8.The tribunal has rightly taken the income of the deceased as Rs.48,000/-. As per the decision of the SARLA VERMA AND OTHERS vs. TRANSPORT CORPORATION AND ANOTHER REPORTED IN (2009) 4 MLJ 997, the claimants are entitled to 15% addition for future prospects, which comes to Rs.55,200/- after deducting 10% towards income tax, the annual income comes to Rs.5,96,160/- (Rs.6,62,400/- (Rs.55,200/- x 12)- Rs.66,240/-) and after deducting 1/3rd towards personal expenses, the loss of income of the deceased works out to Rs.35,76,960/- (Rs.5,96,160/- x 2/3 x 9) and after his retirement, the deceased would be entitled for Rs.3,97,440/- (Rs.5,96,160/- x 1/3 x 2/3 x 2). In total, the claimants will be entitled to Rs.39,74,400/- towards loss of income.

9.As per the latest judgment of the Hon'ble Supreme Court in the case of Pranay Sethi, the wife of the deceased would be entitled Rs.40,000/- towards consortium; Rs.15,000/- towards funeral expenses and Rs.15,000/- for loss of estate. But the tribunal awarded Rs.30,000/- for conventional damages and the same is increased to Rs.70,000/-. In total, the claimants are entitled to Rs.40,44,400/- together with interest @ 7.5% p.a.

10.In the result, the appeal is partly allowed and the award of the tribunal is modified as stated above. The appellant is directed to deposit the modified award amount, less already deposited, within a period of eight weeks from the date of receipt of a copy of this



judgment. On such compliance, the claimants are permitted to withdraw the modified award amount as apportioned by the tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI)

WEB COPY

/True Copy/

Sub Assistant Registrar

To

The Additional District Judge (FTC),
Motor Accident Claims Tribunal,
Ramanathapuram.

COPY TO:

The Section Officer,
V.R.Section, Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

+1cc to M/S.D.Sivaraman, Advocate SR.No. 85889

C.M.A (MD) No.832 of 2014
07.11.2017

am

JM/SV MMS/SAR 3/15.03.2018/3P/5C