



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2017

CORAM:

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

C.M.A(MD)No.657 of 2015

1.K.S.Shanthi  
2.K.S.Jegan  
3.K.S.Deepika Rani  
4.K.S.Karthick

... Appellants/Claimants

**Vs.**

The Managing Director,  
Tamil Nadu State Transport Limited,  
No.19, Trivandram Road,  
Vannarpettai Post,  
Tirunelveli.

... Respondent/Respondent

**PRAYER:** Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, against the Judgment and decree dated 28.11.2014 passed in MCOP No.114 of 2013 on the file of the Motor Accident Claims Tribunal (IV Additional District Judge), Madurai.

For Appellants : Mr.N.Sudhagar Nagaraj

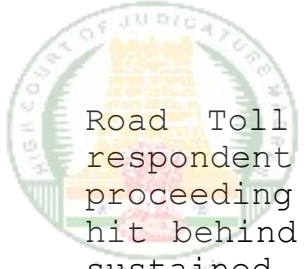
For Respondent : Mr.P.Prabhakaran

**JUDGMENT**

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

The claimants have come up before this court, aggrieved by the quantum passed by the Motor Accidents Claims Tribunal (IV Additional District Judge), Madurai, in MCOP No.114 of 2013, dated 28.11.2014.

2.The legal-heirs of the deceased K.R.Sreedharan, who died in a motor vehicle accident on 25.09.2012 at the age of 54 years, filed a petition claiming compensation of Rs.33,00,000/-. According to the claimants on 25.09.2012 at about 21.15 hours, while the deceased was riding his two wheeler bearing registration No.TN-59-AV-5510 from east to west at the left side of the road between Madurai Ring



Road Toll Gate No.4 and Pearls City, a bus belonging to the respondent Corporation bearing registration No.TN-72-N-1519 proceeding in the same direction, in a rash and negligent manner, hit behind the deceased. In the impact, the deceased fell down and sustained severe head injury. Immediately, he was taken to Government Rajaji Hospital, Madurai and after first aid, when he was on the way to a Private hospital for better treatment, he succumbed to the injuries. A criminal case in Crime No.636 of 2012 was registered against the driver of the bus by the Avaniapuram Police Station under section 304(A) IPC.

3.The respondent resisted the claim contending that the accident occurred due to the negligence of the deceased and therefore, the respondent Transport Corporation is not liable to pay compensation. It is further contended that the claim is exorbitant and excessive.

4.Before the tribunal, the claimants in order to prove their case, examined four witnesses as PW1 to PW4 and marked Exs.P1 to Ex.P12. On the side of the respondent, one Mr.Subramanian was examined as RW1 and marked Exs.R1 and Ex.R2. After analyzing the oral and documentary evidence, the tribunal has come to the conclusion that the driver of the bus was responsible for the accident and awarded compensation of Rs.12,53,500/- with interest @ 7.5% p.a.

5.Heard Mr.N.Sudhagar Nagaraj, learned counsel for the appellants and Mr.P.Prabhakaran, learned counsel for the respondent and also perused the materials available on records.

6.It is seen from the records that the deceased was working as a Commercial Manager in M/s.Ancient Pharam and earning a sum of Rs.25,000/- per month, which is evident from Ex.P8 Salary Certificate and the evidence of PW4. P10 Driving License shows that the deceased was born on 21.12.1957 and he died at the age of 54 years.

7.However, the tribunal, disbelieving the evidence of the claimants, fixed the monthly notional income of the deceased at Rs.10,000/- and added 15% towards future prospects and therefore, the monthly income of the deceased comes to Rs.11,500/- and after deducting  $1/4^{\text{th}}$  from the income and by applying multiplier 11, awarded a sum of Rs.11,38,500/- ( $11,500 \times \frac{3}{4} \times 12 \times 11$ ) towards loss of income; Rs.80,000/- towards loss of love and affection, Rs.25,000/- for loss of funeral expenses; Rs.10,000/- for transportation charges. In total, the tribunal has awarded Rs.12,53,500/- as compensation along with interest @ 7.5. % p.a. In the considered opinion of this Court, the quantum awarded by the Tribunal is reasonable and it is confirmed.

**8. In fine,** the Civil Miscellaneous Appeal is dismissed. In view of the dismissal of the appeal, the claimants are permitted to



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withdraw the entire award amount with accrued interest and cost as per the apportionment made by the Tribunal. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

**To**

The IV Additional District Judge,  
Motor Accident Claims Tribunal,  
Madurai.

**Copy To:-**

The Section Officer,  
V.R.Section,  
Madurai Bench of Madras High Court,  
Madurai.

+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 86087  
+ 1 CC TO Mr.N.SUDHAGAR NAGARAJ, ADVOCATE IN SR No. 86174

AM/ER

TE/SV-MMS/SAR-3 : 01/03/2018 : 3P/6C

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