



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.08.2017
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.M.A(MD)No.68 of 2015

1. M.Pandy
2. Minor P.Santhosh Sivan
3. Minor P.Harish Sivan

(Minors are represented thorough
their father and natural guardian
M.Pandy, the 1st appellant)

... Appellants/Petitioners

Vs.

1. M/s.Krishnaveni Transports,
through its Proprietor,
South Masi Street, Madurai -1.
2. M/s.Oriental Insurance Company Limited,
Divisional Office,
108, T.P.K. Road,
Opp.to Crime Branch,
Madurai -1.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decreetal order in MCOP.No.195 of 2008 on the file of the I Additional District Judge of the Motor Accidents Claims Tribunal, Madurai dated 08.12.2010.

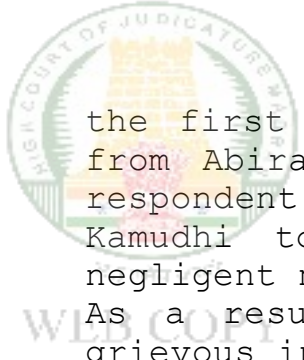
For Appellants	: Mr.R.Ramamoorthy,
For R-1	: No Appearance
For R-2	: Mr.Jawahar Ravindran

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the appellants/claimants against the award of the Motor Accident Claims Tribunal (I Additional District Court), Madurai District, passed in M.C.O.P.No. 195 of 2008, dated 08.12.2010.

2. It is the case of a fatal accident which took place on 18.05.2007 at about 21.45 hours on Madurai - Kamudh Main road near Devaneri Bridge.

3. It is the case of the claimants before the Tribunal that when the deceased P.Umaheswari was travelling as a passenger in



the first respondent's bus bearing Registration No.TN 58 P 7545 from Abiramipuram to Manamadurai. When the driver of the first respondent , at Parthibanur turning near Devaneri Bridge on Kamudhi to Madurai Main Road, drove the bus in a rash and negligent manner and bus capsized on the western side of the road. As a result of the accident, the deceased sustained Multiple grievous injuries and died in Government Hospital, Manamadurai.

4. The claimants filed application in M.C.O.P.No.195 of 2008 on the file of the Motor Accident Claims Tribunal/ I Additional District Court, Madurai District, seeking compensation.

5.Before the Tribunal, the appellants/claimants examined two witnesses as P.Ws.1 and 2 and marked fifteen documents as Ex.P.1 to Ex.P.15. On the side of the respondents, they did not let in any oral and documentary evidence.

6.The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side 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 bearing registration No.TN 58 P 7545 and therefore directed the first and second respondents to pay a sum of Rs.5,30,000/-to the claimants as compensation.

7. Against which, the appellants/claimants filed the present appeal seeking enhancement of compensation.

8.The learned counsel appearing for the second respondent/ Insurance Company submitted that the Tribunal awarded a just and reasonable compensation and the same does not warrant interference.

9. This Court heard the submissions made on either side and perused the materials available on record.

10.The learned counsel for the appellants/claimants would submit that while calculating income of the deceased, the Tribunal has not added 50% towards future prospects. He would further submit that under the heads of loss of consortium,loss of love and affection and for funeral expenses the amounts awarded by the Tribunal are on lower side and therefore, the compensation awarded by the Tribunal is to be enhanced.

11. The deceased age was 32 at the time of accident and the Tribunal rightly fixed monthly income at Rs.5000/- and if 50% of future prospects added, the monthly income would be Rs.7500/- and after 1/3rd deduction Rs.5000/- would be the monthly income and by multiplier 15, the total loss of income would come to Rs.9,00,000/- (Rs.5000 X 15 X 12). The compensation under other heads awarded by the Tribunal is confirmed.

12. This Court modifies the award of the Tribunal by enhancing the compensation as under:-

S.No	Description	By Tribunal (Rs)	By this Court (Rs)	Result
1.	Loss of income	4,80,000	9,00,000	enhanced
2.	Loss of consortium to the first claimant	20,000	20,000	confirmed
3.	Loss of love affection	20,000	20,000	Confirmed
4.	Transportation	5,000	5,000	Confirmed
5.	Funeral expenses	5,000	5,000	confirmed
	Total	5,30,000	9,50,000	By enhancing Rs.4,20,000/-

13. In the result,

(i) The Civil Miscellaneous Appeal is allowed, by enhancing the award of the Tribunal from Rs.5,30,000/- (Rupees five lakhs and thirty thousand only) to a sum of Rs.9,50,000 /- (Rupees nine lakhs and fifty thousand only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs;

(ii) The second respondent/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/ claimants are permitted to withdraw the respective shares with accrued interests and costs as apportioned by the Tribunal, without filing any formal application before the Tribunal. No Costs.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

<https://hcservices.ecourts.gov.in/hcservices/>
The I Additional District Judge,
The Motor Accident Claims Tribunal,
Madurai.



Copy to

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.Jawahar Ravindran, ADVOCATE IN SR No.74942
MK/MR KKR/SAR-4/30.10.2017/4P/4C

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